ARKANSAS CODE OF 1987 ANNOTATED

2019 SUPPLEMENT VOLUME 11B

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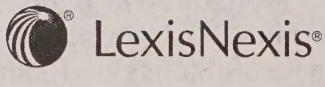
ISBN 978-0-327-10031-7 (Code set)
ISBN 978-0-327-11473-4 (Volume 11B)



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(Pub.40604)

TITLE 14

LOCAL GOVERNMENT

(CHAPTERS 1-53 IN VOLUME 9; CHAPTERS 54-103 IN VOLUME 10; CHAPTERS 104-182 IN VOLUME 11A; CHAPTERS 296-387 IN VOLUME 12)

SUBTITLE 11. ECONOMIC DEVELOPMENT IMPROVEMENT DISTRICTS, FACILITIES, AND AUTHORITIES

CHAPTER 184

CENTRAL BUSINESS IMPROVEMENT DISTRICTS

Subchapter 1 — General Provisions

14-184-103. Legislative determinations.

(a) It is determined and declared by the General Assembly that:

(1) The deterioration of the central business districts of urban centers of the state by reason of obsolescence, overcrowding, faulty arrangement or design, deleterious land use, or a combination of these or other factors is a threat to the property tax and other revenue sources of municipalities;

(2) Increases in population and automobile usage have created conditions of traffic congestion in central business districts, and such

conditions constitute a hazard to the safety of pedestrians and impede the use of public rights-of-way;

(3) The elimination of urban blight and decay and the modernization and general improvement of central business districts by governmental action are considered necessary to promote the public health, safety, and welfare of the communities; and

(4) The restoration of central business districts is the appropriate subject for remedial legislation.

(b) It is further determined and declared by the General Assembly that:

(1) Municipalities should be encouraged to create self-financing improvement districts and designated district management corporations to execute self-help programs to enhance local business climates; and

(2) Municipalities should be given the broadest possible discretion in establishing self-help programs consistent with local needs, goals, and objectives.

History. Acts 1973, No. 162, § 2; A.S.A. 1947, § 20-1601n; Acts 2007, No. 517, § 1.

14-184-111. Board of commissioners.

(a)(1)(A) In the ordinance creating a central business improvement district, the governing body shall appoint a minimum of five (5) persons who shall be owners of real property in the district or officers or stockholders of a corporation owning real property within the district as commissioners who shall compose a board of commissioners for the district.

(B) In cities operating under a commission form of government, the mayor and city commissioners, by virtue of their offices, may be commissioners of each district and may compose the board of each district.

(2)(A) At the initial meeting of commissioners, the governing body of the municipality shall divide randomly the commissioners into three (3) groups roughly equal in number.

(B)(i) The first group of commissioners shall serve a term of two (2) years.

(ii) The second group of commissioners shall serve a term of four (4) years.

(iii) The third group of commissioners shall serve a term of six (6) years.

(C) Following the initial group of commissioners, all commissioners shall serve a term of six (6) years.

(3) The board of commissioners shall elect a chair and a secretary.

(b)(1)(A)(i) All vacancies that may occur after the board shall have been organized shall be filled by the governing body.

(ii) The vacating member shall serve, if possible, until a successor is appointed by the governing body of the municipality.

(B) If all places on the board shall become vacant or those appointed shall refuse or neglect to act or shall cease to have the qualifications required for their original appointment, new members shall be appointed by the governing body as in the first instance.

(2)(A)(i) The governing body shall have the power to remove the board or any member of it by a two-thirds (2/3) vote of the whole number of the members of the governing body.

(ii) Removal shall be for cause only and after a hearing upon sworn charges preferred in writing by a property owner in the district. Ten (10) days' notice of the hearing on the charges shall be given.

(B) The governing body shall have the power to remove the board or any member of it by a vote of the majority of the whole number of the members elected to the governing body upon the written petition of the owners of a majority in assessed value of the property located within the district after a hearing upon ten (10) days' notice to each member of the board affected.

(c) The members of the board shall receive no compensation for their services but may be reimbursed for their actual expenses incurred in the performance of their duties.

History. Acts 1973, No. 162, §§ 8, 11; A.S.A. 1947, §§ 20-1607, 20-1610; Acts 2007, No. 517, § 2.

14-184-115. Powers of improvement district generally.

A central business improvement district has all powers necessary or desirable to undertake and carry out all parts of the planned improvement, including without limitation:

(1) Existence as a body corporate, having the power to sue and to be sued and to contract in its name;

(2) To own, acquire, improve, operate, maintain, sell, lease as lessor or lessee, and contract concerning, or otherwise deal in or dispose of, any and all real and personal property necessary or desirable for the accomplishment of the plan;

(3) To do all of the following:

(A) Acquire, construct, install, operate, maintain, and contract regarding:

(i) Pedestrian or shopping malls;

(ii) Plazas;

(iii) Sidewalks or moving sidewalks;

(iv) Parks;

(v) Parking lots;

(vi) Parking garages;

(vii) Offices;

(viii) Urban residential facilities, including without limitation apartments, condominiums, hotels, motels, convention halls, rooms, and related facilities, and buildings and structures to contain any of these facilities;

(ix) Bus stop shelters;

(x) Decorative lighting;
(xi) Benches or other seating furniture;
(xii) Sculptures;
(xiii) Telephone booths;
(xiv) Traffic signs;
(xv) Fire hydrants;
(xvi) Kiosks;
(xvii) Trash receptacles;
(xviii) Marquees, awnings, or canopies;
(xix) Walls and barriers;
(xx) Paintings or murals;
(xxi) Alleys;
(xxii) Shelters;
(xxiii) Display cases;
(xxiv) Fountains;
(xxv) Childcare facilities;
(xxvi) Restrooms;
(xxvii) Information booths;
(xxviii) Aquariums or aviaries;
(xxix) Tunnels and ramps; and
(xxx) Pedestrian and vehicular overpasses and underpasses;

(B) Acquire airspace for and construct pedestrian walkways through buildings; and

(C) Construct every other useful, necessary, or desired facility or improvement that may secure and develop industry and be conducive to improved economic activity within the district;

(4) To landscape and plant trees, bushes and shrubbery, grass, flowers, and each and every other kind of decorative planting;

(5) To install and operate or to lease public music and news facilities;

(6) To acquire and operate buses, minibuses, mobile benches, and other modes of transportation;

(7) To construct and operate childcare facilities;

(8) To acquire air rights for and to construct, operate, and maintain pedestrian overpasses, vehicular overpasses, public restaurants or other facilities within the air rights, to establish, operate, and maintain other restaurants or public eating facilities within the district, and to lease space within the district for sidewalk cafe tables and chairs;

(9) To construct lakes, dams, and waterways of whatever size;

(10) To employ and provide special police facilities and personnel for the protection and enjoyment of the property owners and the general public using the facilities of the district;

(11) To employ such persons as are necessary to procure such equipment as may be required to maintain the streets, alleys, malls, bridges, ramps, tunnels, lawns, trees, and decorative planting of each and every nature, and every structure or object of any nature whatsoever constructed or operated by the district;

(12) To grant permits for newsstands, sidewalk cafes, and every other useful and desired private usage of public or private property;

(13) To prohibit or restrict vehicular traffic on the streets within the district as the governing body may deem necessary and to provide the means for access by emergency vehicles to or in these areas;

(14) To acquire, construct, reconstruct, extend, maintain, operate, repair, or lease to others for public use parking lots or parking garages, both above and below ground, or other facilities for the parking of vehicles, including the power to install these facilities in public and private areas, whether these areas are owned in fee simple, by easement, or by leasehold, with the approval and authority of the governing body, and, where desirable, to exchange property in kind by negotiations with private owners in the acquisition of property and property rights for the public purposes contemplated by this subchapter;

(15) By agreement or by the exercise of the power of eminent domain:

(A) To remove any existing structures or signs of any description in the district not conforming to the plan of improvement; and

(B) To require utilities servicing the district to lay such pipe, extend such wires, provide such facilities, or conform, modify, or remove existing facilities to effectuate the plan of improvement for the district;

(16) To provide services for the improvement and operation of the district, including without limitation:

(A) Promotion and marketing;

(B) Advertising;

(C) Health and sanitation;

(D) Public safety;

(E) Security;

(F) Traffic and parking improvements;

(G) Recreation;

(H) Cultural enhancement;

(I) Consultation regarding planning, management, and development activities;

(J) Maintenance of improvements;

(K) Activities in support of business or residential recruitment, retention, or management development;

(L) Aesthetic improvements, including the decoration, restoration, or renovation of any public place or building facade and exterior in public view that confers a public benefit;

(M) Furnishing music in any public place;

(N) Special event and festival management;

(O) Professional management, planning, and promotion of the district;

(P) Stabilization, maintenance, rehabilitation, and adaptive reuse of historic buildings; and

(Q) Design assistance; and

(17) To do everything necessary or desirable to effectuate the plan of improvement for the district.

History. Acts 1973, No. 162, § 14; 1975, No. 402, § 5; A.S.A. 1947, § 20-1613; Acts 2007, No. 517, § 3; 2019, No. 383, §§ 20-22.

Amendments. The 2019 amendment, in the introductory language, substituted "has" for "shall have", deleted "any or" following "out", and substituted "without limitation" for "but not limited to, the following"; added the introductory language of (3); rewrote (3)(A); added (3)(A)(i) through (3)(A)(xxx); deleted "To" from the beginning of (3)(B); substituted "Construct" for "To construct each and" in (3)(C); redesignated (15)(A) as the introductory language of (15) and (15)(A); in the introductory language of (15), deleted "To remove, by" from the beginning and inserted "exercise of the"; added "To remove" in (15)(A); and deleted "whether by agreement or by the exercise of eminent domain, any or all" following "require" in (15)(B).

CHAPTER 185

METROPOLITAN PORT AUTHORITIES

SECTION.

14-185-106. Members of the board of authority.

(a) Immediately after the filing of the order of the circuit court, the governing body of each petitioning municipality and the county court of each petitioning county shall appoint the persons to be the members of the board of the authority established by the order of the circuit court in accordance with the provisions of the order as to the number of members to be selected by the respective petitioning municipalities and counties.

(b) The total number of the members of the board of the authority established by the order must be an odd number, each petitioning municipality and each petitioning county must have at least one (1) representative as a member of the board, and the number of members that represent each petitioning municipality and each petitioning county shall be apportioned in the ratio that each petitioner's population bears to the total population of all petitioners.

(c)(1) The term of each member of the board shall be for three (3) years from the date of his or her appointment by the governing body of the municipality or the county court of the county, and he or she shall serve for such term and thereafter until his or her successor shall be duly appointed and qualified.

(2) At the expiration of the term of each member of the board, the governing body of the municipality or the county court of the county which is represented on the board by the member shall appoint a successor member or may reappoint the same member to another term.

(d)(1) Except as provided in subdivision (d)(2) of this section, a vacancy shall be filled by the governing body of the municipality or the county court of the county represented on the board by the vacating member.

(2)(A) If a vacancy on the board is not filled by the municipality or county within ninety (90) days after the vacancy occurs, a majority of

the remaining members of the board shall promptly fill the vacancy by appointing a qualified person to serve for either the unexpired portion of the term of the vacated member or for a new term if the vacating member is unable to serve until a new member is otherwise appointed and qualified.

(B) For the purposes of this section, the expiration of a member's term does not create a vacancy unless the member whose term has expired is unable to serve until his or her successor is appointed and qualified.

(e) Before entering upon his or her duties, each member of the board of the authority shall take and subscribe and file in the office of the circuit clerk of the county where the order establishing the authority was filed an oath to support the United States Constitution and the Arkansas Constitution and faithfully to perform the duties of the office upon which he or she is about to enter.

(f) To be eligible for membership on the board, a person, at the time of his or her appointment and qualification by filing the required oath, must be a qualified elector of the municipality or of the county, as the case may be, that he or she represents on the board.

(g)(1)(A) The board of each authority shall select one (1) of its members as chair, one (1) of its members as secretary, and one (1) of its members as treasurer.

(B) The offices of secretary and treasurer may be combined and held by one (1) member.

(2) The term and duties of the officers shall be fixed by resolution of the board of each authority.

History. Acts 1961, No. 439, § 3; A.S.A. 1947, § 21-1503; Acts 2017, No. 494, § 1.

Amendments. The 2017 amendment rewrote (d).

CHAPTER 186

HARBORS AND PORT FACILITIES GENERALLY

SUBCHAPTER.

2. Municipal Port Authorities.
4. Joint Operation of Ports by Municipalities and Counties.

Subchapter 2 — Municipal Port Authorities

Effective Dates. Acts 2011, No. 833, § 2: Mar. 30, 2011. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that the need for greater citizen input into the operations of a municipal port authority is essential to the public health, safety, and welfare; that this expansion of the authority would allow cities to have great citizen input; and that this act is

immediately necessary because all cities should be able to expand this authority as soon as possible. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-186-203. Creation of authority — Members.

(a)(1) The municipal port authority shall be created by ordinance of the governing body of the city or town and shall be an instrumentality of the city or town creating the authority.

(2)(A) Any city or incorporated town in the State of Arkansas shall have the right, by ordinance, to create and set up a port authority.

(B)(i) The authority shall consist of and be governed by a board of not less than five (5) members and not more than seven (7) members, one (1) of whom may be the mayor of the city or incorporated town creating the authority.

(ii) If the mayor is a member of the port authority, the mayor shall be chair.

(iii) If the mayor is not a member of the port authority, the chair shall be elected by the members of the authority.

(b)(1) The members shall be appointed by the mayor of the city or town creating the authority and shall be qualified electors residing in the city or town or within the county in which the city or town is located.

(2)(A)(i) The members of the board shall be appointed for a period of one (1) year, two (2) years, three (3) years, four (4) years, and five (5) years, respectively.

(ii) If the authority consists of more than five (5) members, the new members shall initially be appointed for staggered terms so that in no year will more than two (2) members be appointed to a full five-year term.

(B)(i) Upon the termination of office of each member, his or her successor shall be appointed for a term of five (5) years and shall serve until his or her successor has been appointed and qualified.

(ii) In the event of a vacancy, however caused, the successor shall be appointed by the mayor for the unexpired term.

(3)(A) The board shall elect one (1) of their number as vice chair and shall elect a secretary and a treasurer who need not necessarily be members of the board.

(B) The authority shall require a surety bond of the treasurer appointee in such amount as the authority may fix, and the premiums on it shall be paid by the authority as a necessary expense of the authority.

(4) The board shall meet upon the call of its chair. A majority of all of its members shall constitute a quorum for the transaction of business.

(5) The members of the authority shall receive such compensation for their services as shall be determined and prescribed by the ordinance setting up and creating the authority.

History. Acts 1947, No. 167, §§ 1, 2, 9; 1979, No. 910, § 1; 1983, No. 622, § 1; A.S.A. 1947, §§ 19-2720, 19-2721, 19-2728; Acts 1991, No. 735, § 1; 2011, No. 833, § 1.

14-186-210. Acquisition of rights-of-way and property.

(a) For the acquiring of rights-of-way and property necessary for the construction of terminal railroads and structures, including railroad crossings, airports, seaplane bases, naval bases, wharves, piers, ships, docks, quays, elevators, compresses, refrigeration storage plants, warehouses, and other riparian and littoral terminals and structures and approaches to them and transportation facilities needful for the convenient use of them, and belt line roads and highways and causeways and bridges and other bridges and causeways, a municipal port authority shall have the right and power to acquire them by purchase, by negotiation, or by condemnation.

(b)(1) Should a municipal port authority elect to exercise the right of eminent domain, condemnation proceedings shall be maintained by and in the name of the authority, and it may proceed as provided by the general laws of the State of Arkansas for the procedure by any county, municipality, or authority organized under the laws of this state, or by the Arkansas Department of Transportation, or by railroad corporations, or in any other manner provided by law, as the authority may, in its discretion, elect.

(2) The power of eminent domain shall not apply to property of persons, state agencies, or corporations already devoted to public use.

History. Acts 1947, No. 167, § 4; A.S.A. 1947, § 19-2723; Acts 2017, No. 707, § 26.

Amendments. The 2017 amendment, in (b)(1), substituted "a municipal port authority" for "it", substituted "as provided" for "in the manner provided", and substituted "Arkansas Department of Transportation" for "State Highway and Transportation Department".

Subchapter 4 — Joint Operation of Ports by Municipalities and Counties

SECTION.
14-186-402. Definitions.

14-186-402. Definitions.

As used in this subchapter:

(1) "Legislative body" means the council of municipalities having the mayor-council form of government and the commission, or other governing body, of municipalities having a commission or other form of government;

(2) "Mayor" means the mayor of municipalities having the mayor-council form of government and the presiding officer of municipalities having a commission or other form of government;

(3) "Municipality" means a city of the first class, a city of the second class, or an incorporated town in the State of Arkansas; and

(4) "Port" means ports, harbors, and river-rail barge terminals, together with wharves, docks, piers, quays, elevators, compresses, refrigeration storage plants, warehouses, landing places and basins, and other structures, and all facilities needful for the convenient use of them, including:

(A) The dredging of approaches to them and the construction of belt line roads and highways and bridges and causeways on them;

(B) Other bridges and causeways necessary or useful in connection with them; and

(C) Shipyards, shipping facilities, and transportation facilities incident to them and useful or convenient for the use of them, including terminal railroads, in their entirety, or any integral part of them.

History. Acts 1959, No. 310, § 1; A.S.A. 1947, § 19-2732; Acts 2017, No. 878, § 15.

Amendments. The 2017 amendment deleted "unless the context otherwise requires" from the introductory language; redesignated the definitions in alphabetical order; in (1) and (2), substituted "mayor-council" for "mayor-aldermanic"; and made stylistic changes.

CHAPTER 188

RURAL DEVELOPMENT AUTHORITIES

Effective Dates. Acts 2019, No. 830, § 6: Apr. 9, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that rural development authorities exist throughout the state to help address conditions of chronic unemployment, underemployment, and economic underdevelopment; that the Rural Development Authority Act was enacted decades ago and did not take into account population growth and the need for healthcare facilities in rural areas; and that this act is immediately necessary to update the Rural Development Authority Act to more effectively serve residents of rural areas. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto".

14-188-102. Legislative declarations.

It is declared that:

(1) Many rural areas of Arkansas suffer from chronic unemployment and underemployment, lack of economic development, and patterns of land use which contribute to soil erosion, undue depletion of soil fertility resulting in inadequate income to support the farm family, and inadequate control of surface waters for flood prevention or drainage and for the maximum conservation and multiple utilization of water resources;

(2) Adequate healthcare facilities are essential to the economic development of rural areas of the state;

(3) Economic development of rural areas of Arkansas is a public use and purpose for which public money may be spent and private property acquired and is a governmental function of state concern;

(4) It is a proper public purpose for any state public body to aid, as provided in this chapter, any rural development authority operating within its boundaries or jurisdiction, or any rural development project located in it, as the state public body derives immediate benefits and advantages from such an authority or project;

(5) It is in the public interest that such rural development projects be commenced as soon as possible in order to alleviate these conditions of chronic unemployment, underemployment, and economic underdevelopment of rural areas which constitute an emergency; and

(6) The necessity in the public interest for the provisions enacted in this chapter is declared as a matter of legislative determination.

History. Acts 1963, No. 172, § 2; A.S.A. 1947, § 20-1402; Acts 2019, No. 830, § 1.

Amendments. The 2019 amendment inserted (2) and redesignated the remaining subdivisions accordingly.

14-188-103. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Area of operation" means all areas within the county, except those areas lying within the corporate limits of cities and towns which have a population of more than nine thousand (9,000) or such part of the area as may be designated as an area of operation under this chapter;

(2) "Bonds" means any bonds, notes, interim certificates, debentures, or other evidences of indebtedness issued by a rural development authority pursuant to this chapter;

(3) "County" means any county in this state;

(4) "Federal government" means the United States of America, or any agency or instrumentality, corporate or otherwise, of the United States of America;

(5) "Governing body" means the county court of any county and, in the case of other state public bodies, the council, commission, board, city council, or other body having charge of the management of the affairs of the state public body;

(6) "Healthcare facilities" means facilities for furnishing physical or mental healthcare services, including without limitation:

(A) Hospitals, emergency medical care facilities, and related facilities; and

(B) Real property, personal property, or mixed property of any kind, including:

(i) Rights-of-way;

(ii) Utilities;

(iii) Materials;

(iv) Equipment;

(v) Fixtures;

(vi) Machinery;

(vii) Furniture;

(viii) Furnishings;

(ix) Buildings; and

(x) Other related improvements;

(7) "Rural development authority", "development authority", or "authority" means any of the public corporations created pursuant to the provisions of this chapter;

(8) "Rural development project", "development project", or "project" means without limitation any work or undertaking:

(A) To develop recreational facilities;

(B) To acquire the types of land enumerated for any of the following purposes:

(i) Submarginal or low-yielding land to convert it to conservation, grazing, forestry, fish and wildlife propagation, or recreation or desirable long-range economic uses;

(ii) Land suitable for cultivation that, because of diverse ownership or location, may be made available by the owners of it and consolidated with other similar tracts in the establishment of adequate farming units or consolidated with land devoted to uses other than crop production;

(iii) Land suitable for cultivation which becomes available in large blocks upon the death or retirement of the operator or which, because of technological changes or economic conditions, may be made available by the owners of it for diverse ownership and operations as adequate farming units;

(iv) Land necessary or desirable for soil and water conservation, flood prevention, watershed protection, drainage, water storage and use, anti-pollution or sanitation uses and other public services or facilities, or necessary rights-of-way and access roads;

(C) For installation, construction, and improvements to utility facilities, roads, parks, conservation practices and measures, flood control and drainage structures and facilities, dams, wells, and reservoirs, pipelines, waterworks, and other devices for the development, storage, and utilization of water for agricultural, domestic, industrial, and community purposes, the development or improvement of sanitation measures, including sewage and sewage disposal

facilities and anti-pollution measures, and the construction, operation, maintenance, and repair of any housing project, or part of it; or

(D) For the acquisition, construction, operation, maintenance, and improvement of healthcare facilities; and

(9) "State public body" means any city, town, county, municipal corporation, commission, district, authority, or other political subdivision of this state.

History. Acts 1963, No. 172, § 3; 1967, No. 75, §§ 1, 2; A.S.A. 1947, § 20-1403; Acts 2019, No. 830, §§ 2-4.

Amendments. The 2019 amendment substituted "nine thousand (9,000)" for "five thousand five hundred (5,500)" in (5) [now (1)]; added (7)(D) [now (8)(D)]; added the definition for "Healthcare facilities"; and made stylistic changes.

14-188-118. Security for deposits.

(a) A rural development authority shall provide by resolution that all moneys deposited by it shall be secured by:

(1) Obligations of the United States or of the state of a market value equal at all times to the amount of the deposits;

(2) Any securities in which savings banks may legally invest funds within their control;

(3) An undertaking with such sureties as shall be approved by the authority faithfully to keep and pay over upon the order of the authority any such deposits and agreed interest on them; or

(4) Other obligations allowed by law.

(b) All banks and trust companies are authorized to give any such security for such deposits.

History. Acts 1963, No. 172, § 21; A.S.A. 1947, § 20-1421; Acts 2019, No. 830, § 5.

Amendments. The 2019 amendment substituted "shall" for "may" in the introductory language of (a); and added (a)(4).

SUBTITLE 12. PUBLIC UTILITIES GENERALLY

CHAPTER 199

GENERAL PROVISIONS

SUBCHAPTER.

Subchapter 1 — General Provisions

SECTION.

Effective Dates. Acts 2007, No. 1609, § 2: Apr. 10, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that as a result of changes in wholesale electric markets municipal electric utilities are being forced to substantially increase rates; that the increases in the electric rates being charged by municipal electric utilities are in many instances creating hardships for customers; and that this act is necessary because it will allow municipalities to use municipal electric utility revenues to provide relief from rate increases to customers who need relief in order to avoid irreparable harm to those customers. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-199-101. Surplus revenues — Definitions.

(a) As used in this section, unless the context otherwise requires:

(1) "Surplus revenues" means revenues remaining after adequate provision shall have been made for expenses of operation, maintenance, and depreciation of the utilities and all requirements pertaining to the payment of principal, interest, and fees in connection with bonds and establishing and maintaining reserves of ordinances or indentures securing bonds issued to finance the cost of constructing, reconstructing, extending, improving, or equipping the utilities have been fully met and complied with; and

(2) "Utilities" means the utility or utilities involved in the pledging and use of surplus utility revenues pursuant to this section for the payment of the principal of, interest on, and paying agent's fees in connection with any bonds issued by the municipality.

(b) Any municipality in this state is authorized to pledge and use surplus revenues derived from one (1) or more of the water, sewer, gas, or electric utilities already owned at the time of any such pledge or use by the municipality for any of the following purposes only:

(1) Off-street parking facilities;

(2) Sanitation facilities;

(3) Hospital buildings and facilities;

(4) Public park buildings, improvements, and facilities;

(5) Auditoriums;

(6) Convention centers;

(7) Streets and roadways;

(8) Airport improvements and facilities;

(9) City halls and municipal administration buildings;

(10) Public ports, harbors, and industrial or other facilities related thereto, whether owned by the municipality or another public body;

(11) Fire and emergency equipment;

(12) Assistance for low-income customers under subsection (d) of this section; or

(13) Any combination of the above purposes.

(c) The authority conferred by this section pertains to the pledging and use of surplus utility revenues to bonds issued by municipalities for the purposes set forth in subsection (b) of this section only, which purposes are not related to the operation of utilities. Nothing in this section shall be construed as modifying or diminishing the authority, the existence of which is confirmed and ratified, of the direct pledging and cross pledging of all or any part of the revenues of each utility to utility revenue bonds issued for constructing, reconstructing, extending, improving, or equipping that and other utilities already owned by the municipality at the time of any such pledge, cross pledge, or use, as is presently done in the case of many municipalities in the state.

(d)(1)(A) The governing authority of a municipal electric utility may use surplus revenues from the operation of the municipal electric utility to provide assistance to low-income customers of the utility.

(B) Not more than four percent (4%) of surplus revenues may be used by the governing authority of a municipal electric utility to provide assistance to low-income customers of the utility.

(2) Assistance to low-income customers of the municipal electric utility may include without limitation:

(A) Home energy efficiency improvements;

(B) Bill payment assistance; or

(C) Other assistance approved by the governing authority of a municipal electric utility.

(3) If the governing authority of a municipal electric utility uses surplus revenues to provide assistance to low-income customers of the utility, the governing authority of a municipal electric utility shall establish guidelines for the application of assistance, including without limitation, qualifications for assistance and the manner in which assistance is sought.

History. Acts 1967, No. 305, §§ 1, 2; 1979, No. 37, § 1; 1979, No. 519, § 1; A.S.A. 1947, §§ 19-3931, 19-3932; Acts 1989, No. 108, § 1; 1993, No. 195, § 1; 2007, No. 1609, § 1.

14-199-105. Release of information to court-appointed process server.

(a) Upon verbal request of a court-appointed process server, a public utility under this subtitle shall release the last known address of a current or former customer to the process server to effect service of process of legal documents on the customer or former customer.

(b) The public utility may request that the process server produce written documentation of his or her court appointment at the time the verbal request is made under this section.

History. Acts 2015, No. 878, § 1.

CHAPTER 200

MUNICIPAL AUTHORITY OVER UTILITIES

Effective Dates. Acts 2009, No. 1480, § 117: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act makes various revisions to Arkansas election laws that are designed to improve the administration of elections and special elections and that these revisions should be implemented as soon as possible so that the citizens of this state may benefit from improved election procedures. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-200-101. Jurisdiction over utilities — Appeal — Definition.

(a) As used in this section, "public utility" means any electric, gas, sewer, water, or telephone company or utility, and any company or utility providing similar services, except a company excluded from the definition of "public utility" under § 23-1-101(9)(B)(ii), a consolidated utility district under the General Consolidated Public Utility System Improvement District Law, § 14-217-101 et seq., and a water or light commission under § 14-201-101 et seq.

(b)(1) Acting by ordinance or resolution of its council, board of directors, or commission, every city and town shall have jurisdiction to:

(A)(i) Except as provided in § 23-4-201, determine the terms and conditions upon which the public utility may be permitted to occupy the streets, highways, or other public places within the municipality, including without limitation:

(a) The rates, quality, and character of each kind of product or service to be furnished or rendered by a public utility; and

(b) A reasonable franchise fee.

(ii) The ordinance or resolution shall be deemed prima facie reasonable.

(iii) A franchise fee for a public utility, including a telephone company providing services other than basic local exchange service, shall not exceed the higher of the amount in effect on January 1, 1997, or four and twenty-five-hundredths percent (4.25%) of revenue collected by the public utility from its customers in the city or town for rates and fees charged by the public utility, unless agreed to by the affected utility or approved by the voters of the municipality;

(B) Require a telephone company providing basic local exchange service to pay a reasonable franchise fee not to exceed the higher of the amount of the telephone company's franchise fee on January 1, 1997, or a fee equal to four and one-quarter percent (4.25%) of the revenues received by the telephone company from providing basic local exchange services, unless:

(i) A higher rate or franchise fee is approved by the voters of the municipality; or

(ii) The telephone company agrees to pay a higher percentage on services offered in addition to basic local exchange services;

(C) Require of any public utility such additions and extensions to its physical plant within the municipality as shall be reasonable and necessary in the interest of the public and to designate the location and nature of all such additions and extensions, the time within which they must be completed, and all conditions under which they must be constructed; and

(D) Provide a penalty for noncompliance with the provisions of any ordinance or resolution adopted pursuant to the provisions of this chapter.

(2) Nothing in this section shall limit the authority of the public utility to collect from its customers residing in each municipality an amount that equals the franchise fee assessed by the municipality on the public utility.

(3) If franchise fees assessed for basic local exchange services are based on revenues, the revenues shall consist of revenues from basic local service, excluding, among other things, extension, terminal equipment, toll, access, yellow pages, and other miscellaneous equipment revenues.

(4)(A) No cause of action that challenges the right of a municipality to assess a franchise fee against a public utility for permission to occupy the streets, highways, or other public places within the municipality shall result in the award of money damages.

(B) However, consistent with the provisions of Arkansas Constitution, Article 16, § 13, any cause of action for illegal exaction found to be meritorious may result in the granting of injunctive relief.

(c)(1) Any public utility affected by any such ordinance or resolution or any other party authorized to complain to the Arkansas Public Service Commission under § 23-3-119 may appeal the action of the council or commission by filing within twenty (20) days of receipt of notice of the ordinance or resolution by the utility's registered agent for service of process of the final action a written complaint with the commission setting out how the ordinance or resolution is unjust, unreasonable, or unlawful, whereupon the commission shall proceed with an investigation, hearing, or determination of the matters complained of, with the same procedure that it would dispose of any other complaint made to it, and with like effect.

(2) Such appeal shall not suspend the enforcement of any provisions of the ordinance or resolution unless the commission, after a hearing

and upon notice and for good cause shown, orders the suspension conditioned upon the filing of a bond with the commission as provided for in § 23-4-408.

(3) Nothing in this section shall be construed to in any way limit or restrict the jurisdiction or the powers of the commission as in other sections granted.

(4) In the event the municipal boundaries of a city or town are altered or amended by annexation or otherwise, the city or town shall notify the utility's registered agent for service of process of the alteration or amendment, and the utility shall not be liable for any additional franchise fees for the right to furnish utility service or occupy the streets, highways, or public places in newly added or annexed areas unless the notice shall have been given.

(d) In all matters of which by this act the commission and cities and towns are each given original jurisdiction, such jurisdiction shall be concurrent. Cities and towns shall take no action with respect to any matter under investigation by the commission until the matter has finally been disposed of by the commission. The commission shall take no action with respect to any matter which is the subject of an ordinance or resolution pending before the council or commission of any city or town until the matter has finally been disposed of.

(e) Nothing in this act shall deprive or be construed as depriving any municipality of the benefits or rights accrued or accruing to it under any franchise or contract to which it may be a party, and neither the commission nor any court exercising jurisdiction under this act shall deprive the municipality of any such benefit or right.

(f)(1) No city or town may impose additional franchise fees upon any provider of regulated broadband services under the Broadband Over Power Lines Enabling Act, § 23-18-801 et seq.

(2) A city or town may impose franchise fees upon any provider of nonregulated broadband services under the Broadband Over Power Lines Enabling Act, § 23-18-801 et seq., at the same rates that the city or town charges other providers of broadband network services.

History. Acts 1935, No. 324, § 15; Pope's Dig., § 2078; A.S.A. 1947, § 73-208; Acts 1993, No. 403, § 7; 1994 (1st Ex. Sess.), No. 6, §§ 3, 6; 1994 (1st Ex. Sess.), No. 7, §§ 3, 6; 1997, No. 182, § 1; 1999, No. 576, § 1; 2007, No. 477, § 1; 2007, No. 739, § 2; 2009, No. 163, § 4; 2019, No. 241, §§ 1, 2.

Amendments. The 2019 amendment, in (a), inserted "or utility" twice, and inserted "water" following "sewer"; and in (b)(1)(A)(iii), inserted "public", substituted "twenty-five hundredths percent" for "one-quarter percent", and inserted "of revenue collected by the public utility from its customers in the city or town for rates and fees charged by the public utility".

14-200-107. Election to authorize purchase by municipality.

Any municipality may determine to acquire the property of a public utility as authorized under the provisions of this act by the vote of the municipal council or city commission, taken after a public hearing, of which at least thirty (30) days' notice has been given, and ratified and

confirmed by a majority of the electors voting thereon at any general or special municipal election held in accordance with § 7-11-201 et seq.

History. Acts 1935, No. 324, § 48; Pope's Dig., § 2111; A.S.A. 1947, § 73-246; Acts 2005, No. 2145, § 49; 2007, No. 1049, § 70; 2009, No. 1480, § 89.

CHAPTER 201

MUNICIPAL BOARDS AND COMMISSIONS

SUBCHAPTER.

Subchapter 1 — Cities of the First Class Generally

SECTION.

Effective Dates. Acts 2009, No. 1480, § 117: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act makes various revisions to Arkansas election laws that are designed to improve the administration of elections and special elections and that these revisions should be implemented as soon as possible so that the citizens of this state may benefit from improved election procedures. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-201-105. Creation of commission — Members.

(a)(1) Any city of the first class in which it is desired to establish such a utility commission, by a majority vote of the city council, shall enact an ordinance creating a commission to be composed of five (5) citizens who are qualified electors of the county and not less than thirty-five (35) years of age.

(2) The ordinance, resolution, or other action creating a commission shall specifically state that the commission is created pursuant to this subchapter.

(b) The commissioners shall be appointed by the mayor and confirmed by a two-thirds vote of the city council.

(c) A member of the commission shall not be an officer, director, or employee of a private utility company.

(d)(1) There shall be five (5) positions on the commission.

(2) The person appointed to:

(A) Position number one (1) shall serve for a term of one (1) year;

(B) Position number two (2) shall serve for a term of two (2) years;

(C) Position number three (3) shall serve for a term of three (3) years;

(D) Position number four (4) shall serve for a term of four (4) years; and

(E) Position number five (5) shall serve for a term of five (5) years.

(3) Successor members shall be appointed for a term of five (5) years.

(e) All vacancies occurring in the membership of the commission due to death, resignation, or other causes shall be filled by the mayor appointing a person to fill the unexpired term of the membership so vacated, subject to the approval of two-thirds (⅔) of the city council.

(f) Successors to members of the commission whose terms have expired or who fill the unexpired portion of a term shall be appointed by the mayor, subject to the approval of two-thirds (⅔) of the city council.

History. Acts 1957, No. 115, §§ 1, 2, 5; 1961, No. 108, § 1; 1985, No. 889, § 1; A.S.A. 1947, §§ 19-4061, 19-4062, 19-4065; Acts 1989, No. 275, § 1; 2003, No. 1464, § 1; 2015, No. 897, § 1.

Amendments. The 2015 amendment rewrote (c) and (d).

14-201-109. Abolition of commission.

(a)(1) A utility commission established under this subchapter by the city council or other governing body may be abolished by a majority vote of the city council or other governing body.

(2) No abolishment of any such commission, whether pursuant to the provisions of this subchapter or otherwise, shall affect the rights, properties, or obligations held or incurred by the commission.

(b)(1) If twenty-five percent (25%) of the electors of the city petition the city council to do so, a special election shall be ordered in accordance with § 7-11-201 et seq. not later than fourteen (14) days from the date on which the petition was filed to be held at least ninety (90) days after the order on the question whether the utility commission shall be abolished or continued.

(2) A majority vote of the electorate shall determine the question.

History. Acts 1957, No. 115, §§ 3, 4; 1985, No. 889, § 2; A.S.A. 1947, §§ 19-4063, 19-4064; Acts 2005, No. 2145, § 50; 2007, No. 1049, § 71; 2009, No. 1480, § 90; 2015, No. 897, § 2.

Amendments. The 2015 amendment rewrote (a)(1).

Subchapter 3 — Cities of the Second Class and Towns

SECTION.

14-201-325. Disposition of profits.

Any profits derived by any of the boards of public utilities created under this subchapter, after there has been set aside from the earnings a sum sufficient to pay all outstanding indebtedness of the plants or sewerage systems under the control of the board and a sum sufficient to provide for expenses, extensions, and enlargements found necessary, or which may be reasonably anticipated, shall be used by the board to retire any outstanding bonds or interest thereon issued by any of the boards of improvement of the district constructing the plants under its control. In case there are no such outstanding bonds or interest or when all of such outstanding bonds and interest thereon have been paid, such profits shall be paid to the treasurer of the city or town wherein the board is created. These funds are to be used by the city or town council to defray any expense or pay any debt of the city or town.

History. Acts 1939, No. 95, § 28; A.S.A. 1947, § 19-4028; Acts 2017, No. 879, § 37.

Amendments. The 2017 amendment substituted "city or town council" for "board of aldermen of the city or town" in the last sentence.

CHAPTER 202

JOINT MUNICIPAL ELECTRIC POWER GENERATION

Effective Dates. Acts 2001, No. 988, § 5: Mar. 21, 2001. Emergency clause provided: "It is found and determined by the General Assembly that the public relies upon reasonably priced supplies of electricity and that the ability of municipalities to invest in and construct electric utility generating facilities and ensure the lowest practicable electric rates for their residents is unreasonably reduced by restriction of project partners to regulated utilities. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

14-202-102. Definitions.

As used in this chapter:

(1) "Bonds" means bonds and any series of bonds authorized by and issued pursuant to the provisions of this chapter;

(2) "Clerk" means city clerk, city recorder, town recorder, or other similar office hereafter created or established;

(3) "Costs" or "project costs" means, but shall not be limited to:

(A) All costs of acquisition, construction, reconstruction, improvement, enlargement, betterment, or extension of any project, including the costs of studies, plans, specifications, surveys, and estimates of costs and revenues relating thereto;

(B) All costs of land, land rights, rights-of-way and easements, water rights, fees, permits, approvals, licenses, certificates, and franchises, and the preparation of applications for and securing the same;

(C) Administrative, organizational, legal, engineering, and inspection expenses;

(D) Financing fees, expenses, and costs;

(E) Working capital;

(F) Initial and reload fuel costs;

(G) All machinery and equipment, including construction equipment;

(H) All costs related to upgrades on a transmission system owned by a person or an entity that are required for the delivery of power and energy from the project to the municipality;

(I) Interest on the bonds during the period of construction and for such reasonable period thereafter as may be determined by the issuing municipality;

(J) Establishment of reserves; and

(K) All other expenditures of the issuing municipality incidental, necessary, or convenient to the acquisition, construction, reconstruction, improvement, enlargement, betterment, or extension of any project and the placing of the project in operation;

(4) "Electric system" means any system for the generation, transmission, or distribution of electric power or energy;

(5) "Energy service provider" means a qualifying facility, a power broker, a power marketer, any entity other than an electric utility or a municipal electric utility, or an aggregator other than a municipality or county or group of municipalities or counties that sells or otherwise provides electricity to or for itself or a retail electric customer, regardless of whether the entity sells other electric services and regardless of whether the entity takes title to the electricity;

(6) "Governing body" means the council, board of directors, commission, or other governing body of a municipality;

(7) "Interest" or "interest in a project" means any ownership interest in a project, including, without limitation, an undivided interest as a tenant in common, an undivided leasehold interest, or an interest consisting of rights to receive an agreed-upon portion of the power and energy output of a project;

(8) "Major utility facility" means any electric generating plant and related necessary and appurtenant land rights, substation, fuel, fuel handling, processing and storage equipment, water supply facilities,

and similar necessary equipment and property, whether real, personal, or mixed;

(9) "Municipality" means any city of the first class or city of the second class incorporated under the laws of this state, or any commission or agency thereof, including any municipally owned or controlled corporation or any improvement district, consolidated public or municipal utility system improvement district, or nonprofit corporation lessee of such entity which owns or operates an electric system, and any authority created under the Arkansas Municipal Electric Utility Interlocal Cooperation Act of 2003, § 25-20-401 et seq.;

(10) "Person" means any natural person, firm, corporation, electric cooperative corporation, energy service provider, nonprofit corporation, association, or improvement district;

(11) "Power requirements of the municipality" means the maximum hourly electric consumption by the municipality's retail customers;

(12) "Project" means any major utility facility owned, in whole or in part, by one (1) or more public utilities, persons, or municipalities, whether the major utility facility is located entirely or partly within, or wholly without, the state;

(13) "Public utility" means any person or entity engaged in the generation and sale of electric power and energy which was subject to regulation by the Arkansas Public Service Commission as to such generation and sale prior to the enactment of § 23-19-101 et seq. [repealed]; and

(14) "State" means the State of Arkansas.

History. Acts 1979, No. 5, § 2; A.S.A. 1947, § 19-5602; Acts 2001, No. 988, § 1; 2003, No. 366, § 3; 2007, No. 236, § 1; 2009, No. 163, § 5.

14-202-103. Authorization to construct and operate project.

(a)(1) A municipality is authorized and empowered to acquire, construct, reconstruct, enlarge, equip, operate, and maintain an interest in a project, jointly with one (1) or more municipalities, persons, or public utilities, and is authorized and empowered to enter into agreements for the joint or cooperative ownership, financing, construction, or operation and maintenance of any project, and to enter into agreements for the exchange of, and to exchange with, other municipalities, persons, or public utilities an interest in one (1) or more portions of a project for an interest in one (1) or more other portions of the project.

(2) In particular, but without limiting the generality of subdivision (a)(1) of this section, any municipality may participate in the financing of any project owned or to be owned by the other party or parties to the agreement, in exchange for the ownership of a portion thereof, for the use of the project or for an agreed-upon portion of the power and energy output thereof.

(3) Any agreement may provide for the creation of a joint board or committee for administration of the undertaking covered by the agreement or for the delegation of authority to administer an undertaking to

one (1) or more parties to the agreement and may contain such other terms and conditions as the parties consider appropriate.

(b) Prior to exercising any such authority or power, the governing body of the municipality shall determine the needs of the municipality for power and energy for the present and a reasonable period in the future as shall be determined by the governing body of the municipality. In determining the desirability of a proposed project, there shall be taken into account the following:

(1) The economies, efficiencies, and revenues estimated to be achieved in acquiring, constructing, and operating the proposed project;

(2) The municipality's estimated requirements for power and energy from the project and for reserve capacity and to meet obligations under pooling and reserve sharing agreements reasonably related to its needs for power and energy to which it is or is anticipated to become a party;

(3) The cost of existing or alternative power supply sources; and

(4) The marketability of electric power in excess of the power requirements of the municipality.

(c) Any municipality is authorized to make, or cause to be made, and pay for engineering and other studies as it may deem necessary or desirable.

(d) A municipality shall not undertake the acquisition, construction, enlarging, or equipping of an interest in the project which will result in the municipality's owning electric power capacity that shall exceed two hundred fifty percent (250%) of the power requirements of the municipality.

History. Acts 1979, No. 5, § 3; A.S.A. 1947, § 19-5603; Acts 2001, No. 988, § 2; 2003, No. 366, §§ 5, 6.

14-202-104. Contracts to acquire interest in project.

(a) The acquisition of an interest in a project may include the purchase or lease by mutual voluntary agreement with another person or municipality of an existing project or an interest therein or the participation in the planning, engineering, and legal aspects of preparing for the construction of and securing necessary state, local, or federal permits for the construction of a proposed project or a project on which construction begun but not been completed.

(b) Any contract entered into by a municipality with respect to an interest in, and operation of, a project shall be authorized by ordinance of the governing body of the municipality and shall contain such terms, conditions, and provisions as the governing body of the municipality shall determine to be necessary or desirable. Any contract may include, but shall not be limited to, the following:

(1) The purpose or purposes of the contract;

(2) The duration of the contract;

(3) The manner of appointing or employing the personnel necessary in connection with the project;

(4) The method of financing the project, including the apportionment of costs and revenues;

(5) Provisions specifying the ownership interests of the parties in real property, or portions thereof, used or useful in connection with the project and the procedures for the disposition of such property when the contract expires, is terminated, or when the project, for any reason, is abandoned, decommissioned, or dismantled;

(6) Provisions relating to alienation and partition of a municipality's undivided interest in a project;

(7) Provisions permitting or requiring the exchange by the municipality with other municipalities, persons, or public utilities of an interest in one (1) or more portions of a project for an interest in one (1) or more other portions of the project and specifying the procedure therefor;

(8) Appropriate provisions pertaining to the details of accomplishing the acquisition, including provisions that authorize a person, including one (1) of the parties to the contract, a public utility, or a third party, to construct the project as agent for all the parties;

(9) Provisions for the operation and maintenance of a project, including provisions that authorize a person, including one (1) of the parties to the contract, a public utility, or a third party, to operate and maintain the project as agent for all the parties;

(10) Provisions that if one (1) or more of the parties shall default in the performance or discharge of its or their obligations with respect to the project, one (1) or more of the other parties shall assume, pro rata, or otherwise, the obligations of such defaulting party or parties and succeed to such rights and interests of the defaulting parties in the project as may be agreed upon in the contract;

(11) Methods of amending the contract;

(12) Methods for terminating the contract; and

(13) Any other necessary or proper matter.

(c) It shall not be necessary for the municipality to publish any such contract if the ordinance authorizing the contract is published as required by law governing the publication of ordinances of a municipality, the ordinance advises that a copy of the contract is on file in the office of the clerk of the municipality for inspection by any interested person, and the copy of the contract is filed with the clerk of the municipality.

History. Acts 1979, No. 5, § 4; A.S.A. 1947, § 19-5604; Acts 2001, No. 988, § 3; 2007, No. 236, § 2.

14-202-105. Sale of excess capacity.

Capacity or output derived by a municipality from a project not then required by the municipality may be sold or exchanged by the municipality, for such consideration, for such period, and upon such other terms and conditions as may be determined by the parties to any other

municipality, improvement district, federal or state political subdivision or agency, or other person, which other municipality, improvement district, federal or state political subdivision or agency, or other person owns an electric system or electric system facilities whether operated by it, or by a person under a franchise, lease, or other agreement.

History. Acts 1979, No. 5, § 5; A.S.A. 1947, § 19-5605; Acts 2007, No. 236, § 3.

14-202-112. Bonds, coupons — Execution and seal.

(a)(1)(A) Bonds issued hereunder shall be executed by the manual or facsimile signatures of the mayor and clerk of the municipality.

(B) Any coupons attached to the bonds may be executed by the facsimile signature of the mayor of the municipality.

(2) In case any of the officers whose signatures appear on the bonds or coupons shall cease to be officers before the delivery of the bonds or coupons, their signatures shall, nevertheless, be valid and sufficient for all purposes.

(b) The seal of the municipality shall be placed or printed on each bond in such manner as the governing body of the municipality shall determine.

History. Acts 1979, No. 5, § 8; 1981, No. 425, § 45; A.S.A. 1947, § 19-5608; Acts 1993, No. 543, § 1; 1993, No. 611, § 1; 2007, No. 236, § 4.

CHAPTER 206

ACQUISITION OF UTILITIES BY MUNICIPALITIES

Effective Dates. Acts 2009, No. 1480, § 117: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act makes various revisions to Arkansas election laws that are designed to improve the administration of elections and special elections and that these revisions should be implemented as soon as possible so that the citizens of this state may benefit from improved election procedures. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emer-

gency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

14-206-103. Confirmation by electors.

(a) Any municipality may determine to seek approval from the commission to acquire the property of a gas or electric public utility as authorized under the provisions of this chapter by the vote of the municipal council, city commission, or governing body taken after a public hearing, of which at least thirty (30) days' notice has been given by publication in newspapers having a general circulation within the municipality. This vote shall have been ratified and confirmed by a majority of the electors voting thereon at any special election held in accordance with § 7-11-201 et seq.

(b)(1) In the event the vote of the municipal council, city commission, or governing body is ratified and confirmed by a majority of the electors voting thereon, the clerk of the municipality shall notify the commission of the results of the election within ninety (90) days thereafter.

(2) Within one (1) year after the election, the municipality may file with the commission an application for approval of a certificate for the acquisition or purchase of the property of a gas or electric public utility as provided in this chapter.

History. Acts 1987, No. 110, § 2; 2005, No. 2145, § 51; 2007, No. 1049, § 72; 2009, No. 1480, § 91.

14-206-105. Proof of service and notice — Filing fee.

(a)(1) Each application shall be accompanied by proof of service of a copy of the application on the gas or electric public utility which owns the property and on the director or other administrative head of the following state agencies or departments:

(A) The Division of Environmental Quality;

(B) The Arkansas Economic Development Commission;

(C) The Department of Finance and Administration;

(D) The Arkansas Energy Office of the Division of Environmental Quality;

(E) The Attorney General;

(F) Any school district or other political subdivision of this state that is the recipient of real and personal property taxes in which any of the gas or electric utility properties to be acquired by the municipality may be located; and

(G) Any other state agency or department or political subdivision of this state designated by Arkansas Public Service Commission rule or order.

(2) The copy of the application shall be accompanied by a notice specifying the date on or about which the application is to be filed and a notice that interventions or limited appearances must be filed with the commission within thirty (30) days after the date of filing, unless good cause is shown.

(b)(1) Each application shall also be accompanied by proof that public notice thereof was given to persons residing in the municipality by the publication of a summary of the application, and a statement of the date on which it is to be filed, and a statement that interventions or limited appearances must be filed with the commission within thirty (30) days after the filing date set forth in the notice, unless good cause is shown, in a newspaper or newspapers having substantial circulation in the municipality.

(2) For purposes of this subsection, any economic impact statement submitted as an exhibit to the application need not be summarized. However, the published notice shall include a statement that the impact statements are on file at the office of the commission and available for public inspection.

(3) The municipality shall also cause copies of the economic impact statement to be available for public inspection. The published notice shall contain a statement of the location and the times the impact statements will be available for public inspection.

(4) In addition, the commission may, after filing, require the applicant to serve notice of the application or copies of it, or both, upon such other persons, and file proof thereof, as the commission may deem appropriate.

(c) Where any personal service or notice is required in this section and § 14-206-104, service may be made by any officer authorized by law to serve process by personal delivery or by certified mail.

(d) An initial filing fee of five hundred dollars ($500) shall accompany each application.

History. Acts 1987, No. 110, § 3; 1997, No. 540, § 63; 1999, No. 1164, § 125; 2019, No. 315, § 1011; 2019, No. 910, §§ 3035, 3036.

Amendments. The 2019 amendment by No. 315 substituted "rule" for "regulation" in (a)(1)(G).

The 2019 amendment by No. 910 substituted "Division of Environmental Quality" for "Arkansas Department of Environmental Quality" in (a)(1)(A) and (a)(1)(D).

14-206-108. Decision upon application — Burden of proof.

(a) The commission shall render a decision upon the record either granting or denying the application as filed or granting it upon such terms, conditions, or modifications of the financing, acquisition, operation, or maintenance of the property as the commission may deem appropriate. The commission may not grant a certificate for the

financing, acquisition, operation, and maintenance of any property, either as proposed or as modified by the commission, unless it shall find and determine:

(1) The nature of the probable economic impact of the acquisition on the customers of the gas or electric public utility that owns the property and on the customers to be served by the municipality;

(2) That the method of financing the acquisition, either as proposed or as modified by the commission, represents an acceptable economic impact, considering economic conditions and the need for and cost to the municipality of additional gas or electric public utility services;

(3) That the acquisition of the properties, the gas or electric public utility functions to be performed, the operating procedures, the properties and equipment, and the use of the properties collectively provide reasonable assurance that the municipality will comply with all applicable laws, rules, and regulations and that the public health, safety, economy, and convenience will not be adversely affected;

(4) That the municipality is technically and financially qualified to acquire and operate the proposed properties in accordance with all applicable laws, rules, and regulations;

(5) That the issuance of the certificate will not be detrimental to the public health, safety, economy, and convenience; and

(6) That the acquisition will serve the public interest, convenience, and necessity.

(b) Any municipality which files an application for approval of the acquisition or purchase of any gas or electric utility property shall have the burden of proof with respect to every element of the application. The commission shall not approve any application for approval of the purchase or acquisition by any municipality of any property of a gas or electric public utility unless it shall be shown at the hearing upon the application for approval of the acquisition, by the clear preponderance of the evidence, that neither the gas or electric public utility nor the customers of the gas or electric public utility will be adversely affected by the proposed acquisition or purchase.

History. Acts 1987, No. 110, § 6; 2019, No. 315, § 1012.

Amendments. The 2019 amendment inserted "rules" following "laws" in (a)(3) and (a)(4).

CHAPTER 207

VALUATION OF PROPERTIES AND FACILITIES UPON ANNEXATION

SECTION.

Effective Dates. Acts 2001, No. 988, § 5: Mar. 21, 2001. Emergency clause provided: "It is found and determined by the General Assembly that the public relies upon reasonably priced supplies of electricity and that the ability of municipalities to invest in and construct electric utility generating facilities and ensure the lowest practicable electric rates for their residents is unreasonably reduced by restriction of project partners to regulated utilities. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

14-207-101. Definitions.

As used herein the following terms shall have the following definitions:

(1) "Municipality" shall mean both Arkansas municipal corporations and consolidated municipal utility improvement districts;

(2) "Electric public utility" and "electric public utility system" shall include persons, corporations, and other entities providing electric power to the public at wholesale or retail, but shall not include electric cooperative corporations providing electric power predominantly for resale;

(3) "Franchise" or "franchise agreement" shall mean an agreement between a municipality which owns or operates an electric utility system and an electric public utility, including, but not limited to franchise agreements within the meaning of Acts 1935, No. 324, as amended, whereby the electric public utility continues to serve customers in its allocated service area and pays to the municipality which owns or operates an electric utility system franchise fees in accordance with applicable law and the rules of the Arkansas Public Service Commission.

History. Acts 1989, No. 639, § 1; 1991, No. 745, § 1; 2019, No. 315, § 1013.

Amendments. The 2019 amendment deleted "and regulations" following "rules" in (3).

14-207-103. Right to acquire properties, facilities, and customers.

CASE NOTES

Construction With Other Laws.

A municipal utility could take facilities, customers, and property in an area annexed by a city, notwithstanding that § 23-18-302(8) stood for the general proposition that an electric cooperative could not be ousted from its assigned area, as this section specifically allowed a municipal utility to condemn the facilities, distribution properties, and customers of an electric cooperative. Craighead Elec. Coop. Corp. v. City Water & Light Plant, 278 F.3d 859 (8th Cir. 2002).

14-207-104. Procedures and valuation formula.

(a) In the event that an agreement pursuant to § 14-207-103(a) or (b) cannot be reached within such six-month period, the municipality shall pay to the electric public utility an amount equal to the following:

(1) The present-day reproduction cost, new, of the properties and facilities being acquired, less depreciation computed on a straight-line basis; plus

(2) The book value, net of depreciation, of all properties and facilities not being acquired or portions thereof, which were constructed or purchased in good faith by the electric public utility in order to serve customers in the annexed area, less the book value, net of depreciation, of the properties and facilities, to the extent that at the time that title to the properties or facilities being taken pursuant to this act is transferred, the properties and facilities not being acquired:

(A) Are required for serving customers of the electric public utility not in the annexed area; and

(B) May be reasonably expected to serve customers not in the annexed area within eight (8) years following the acquisition; plus

(3) An amount equal to the cost of constructing any necessary facilities to reintegrate the system of the electric public utility outside the annexed area after detaching the portion to be sold; plus

(4) In the event that the electric public utility system does not provide wholesale power service to the municipality acquiring its properties, facilities, and customers under this subchapter, then, in addition to the amounts required by subdivisions (a)(1) and (3) of this section, the municipality shall pay the electric public utility either:

(A) Three hundred fifty-five percent (355%) of gross revenues less gross receipts taxes received by the electric public utility for the twelve-month period preceding notification from customers in the annexed area; or

(B) The amount required by subdivision (a)(4)(A) of this section payable over five (5) years with interest at the then-prevailing AAA insured tax-exempt municipal bond interest rate.

(b) In the event that the electric public utility system ceases to provide wholesale power service to the municipality prior to five (5) years after the acquisition of the properties, facilities, and customers of the electric power utility under this subchapter, then the municipality will pay, pro rata for the remainder of such five-year period, in accordance with subdivision (a)(4)(A) of this section.

History. Acts 1991, No. 745, § 3; 2001, No. 988, § 4.

14-207-106. Exercise of power of eminent domain.

CASE NOTES

Cited: Craighead Elec. Coop. Corp. v. City Water & Light Plant, 278 F.3d 859 (8th Cir. 2002).

CHAPTER 208

VALUATION OF RURAL WATER SERVICE PROPERTIES AND FACILITIES UPON ANNEXATION

14-208-101. Definitions.

As used in this chapter:

(1) "Municipality" means both Arkansas municipal corporations and consolidated municipal water improvement districts; and

(2) "Rural water service" means any entity under Arkansas law that is not owned by a municipality and is a water association, water improvement district, or water authority.

History. Acts 2009, No. 779, § 1.

14-208-102. Right to acquire rural water service properties, facilities, and customers — Definition.

(a)(1)(A) Unless otherwise agreed between a municipality that owns or operates a water service and a rural water service, the inclusion by annexation of any part of the assigned service area of a rural water service within the boundaries of any Arkansas municipality shall not in any respect impair or affect the rights of the rural water service to continue operations and extend water service throughout any part of its assigned service area unless a municipality that owns or operates a water service elects to purchase from the rural water service all customers, distribution properties, and facilities located within the municipality reasonably utilized or reasonably necessary to serve customers of the rural water service within the annexed areas under this chapter, excluding water sources, treatment plants, and storage serving customers outside the annexed areas.

(B) As used in this subdivision (a)(1), "continue operations" means to continue setting meters, reading meters, and supplying water.

(C) Under this section, a municipality has the exclusive right with regard to water service provided by the rural water service to:

(i) Conduct inspections of the water system within the municipality;

(ii) Issue and regulate permits for the water system within the municipality; and

(iii) Regulate water service to property within the corporate limits of the municipality, even if the water service is part of the assigned service area of the rural water service.

(2)(A) Unless otherwise agreed between a municipality that owns or operates a water service and a rural water service, a municipality may not undertake or begin construction, operation, or extension of any equipment or facilities for the supplying of water service to the annexed areas without complying with this chapter.

(B) The affected rural water service is entitled to injunctive relief for any violation of this chapter.

(b)(1) The municipality shall give written notice to the rural water service prior to the municipality's acquiring from the rural water service all customers, distribution properties, and facilities reasonably utilized or reasonably necessary to serve customers of the rural water service within the annexed areas.

(2) The municipality and the rural water service shall meet and negotiate in good faith the terms of the acquisition, including, as an alternative, granting the rural water service an agreement to serve the annexed area or portions of the annexed area.

(3)(A) Before an acquisition under this chapter by the municipality occurs, the municipality shall receive approval from the Arkansas Natural Resources Commission that the action complies with the Arkansas Water Plan under § 15-22-503.

(B) The commission shall:

(i) Approve the application under the Arkansas Water Plan if it determines the requirements of § 15-22-223(b)(2)(B) are satisfied, including costs derived from negotiation or appraisal;

(ii) Issue a letter to the municipality that the proposed action is exempt from review under the Arkansas Water Plan; or

(iii) Deny the application under the Arkansas Water Plan if it determines the requirements of § 15-22-223(b)(2)(B) are not satisfied.

(c) An agreement reached under this chapter shall comply with § 15-22-223.

(d) This chapter shall not limit applicable federal law, including without limitation 7 U.S.C. § 1926(b) [repealed].

(e) If a municipality that owns or operates a water service has an area within its corporate limits that is served by another municipality's water service, the municipality may elect to purchase from the other municipality's water service all customers, distribution properties, and facilities located within the municipality using the procedures under this chapter.

History. Acts 2009, No. 779, § 1; 2011, No. 778, § 3; 2011, No. 1053, § 1; 2017, No. 895, § 1.

Amendments. The 2017 amendment redesignated former (a)(1) as (a)(1)(A); and added (a)(1)(B) and (a)(1)(C).

14-208-103. Procedures and valuation formula.

(a)(1)(A) If an agreement under § 14-208-102 cannot be reached, the municipality and the rural water service shall each select one (1) qualified appraiser, and the two (2) appraisers selected shall then select a third appraiser for the purpose of conducting appraisals to determine the value of customers, distribution properties, and facilities of the rural water service annexed by the municipality.

(B) The value of customers, distribution properties, and facilities of the rural water service annexed by the municipality shall be determined by using the factors set out in § 15-22-223(b)(2)(B).

(2) The agreement or decision of at least two (2) of the three (3) appraisers is the value.

(3) If either the municipality or the rural water service is dissatisfied with the decision of the appraisers, either may institute an action in circuit court to challenge the reasonableness of the value determined by the appraisers.

(b) The compensation required by this section shall be paid:

(1) To the rural water service at a time not later than one hundred twenty (120) days following the date upon which the value is certified;

(2) At a later date as mutually agreed upon by the parties; or

(3) As determined by the circuit court.

History. Acts 2009, No. 779, § 1.

14-208-104. Valuation data.

(a) The rural water service shall provide to the municipality all data and information required to establish valuations under this chapter.

(b) Upon execution of an agreement reached under this chapter, the municipality shall reimburse the rural water service for reasonable costs of appraisal and incidental expenses associated with establishing valuation.

History. Acts 2009, No. 779, § 1.

SUBTITLE 13. PUBLIC UTILITY IMPROVEMENT DISTRICTS

CHAPTER 217

GENERAL CONSOLIDATED PUBLIC UTILITY SYSTEM IMPROVEMENT DISTRICTS

SECTION.

Effective Dates. Acts 2007, No. 45, § 2: Jan. 31, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that consolidated utility districts are empowered to participate in the development, ownership, and operation of electric generation facilities, that current Arkansas law is unclear regarding the authority of districts to participate in projects located outside the state of Arkansas, and that the authority should be confirmed and clarified to allow districts to immediately proceed with out-of-state projects. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-217-103. Definitions.

As used in this chapter:

(1) "Assessment secured bonds" means bonds described in and issued under the authority of § 14-217-109(b);

(2) "Board of commissioners" or "board" means the board of commissioners, board of directors, board of improvement, or other governing board of a district;

(3) "Bonds" means bonds issued under the authority of this chapter, whether assessment secured bonds or revenue bonds;

(4) "City clerk" means city clerk, city recorder, town recorder, or other similar office hereafter created or established;

(5) "Commissioner" means any member of a board of commissioners;

(6) "Consolidated utility district" or "district" means any municipal improvement district created before March 19, 1975, pursuant to special act or general act, or created after March 19, 1975, pursuant to this chapter, for the purpose of constructing or operating and maintaining a consolidated utility system;

(7) "Consolidated utility system", "consolidated system", or "system" means any system of public utilities together with any facilities related to or necessary or appropriate to the construction, operation, or maintenance consisting of:

(A) A combined water system and sewer system; or

(B) An electric system consolidated or combined with a water system or with a sewer system;

(8) "Construct" or "construction" means to acquire, construct, reconstruct, extend, improve, install, or equip any system or portion thereof;

(9) "Electric system" means any system for the production, generation, transmission, or delivery of electricity;

(10) "Governing body" means the council, board of directors, commission, or other governing body of a municipality;

(11) "Major utility facility" or "major facility" means any electric generating plant or bulk water supply facility and related necessary appurtenant land and land rights, substation, fuel, fuel handling and storage equipment, and similar necessary equipment;

(12) "Municipality" means any city of the first class, city of the second class, or incorporated town;

(13) "Person" means any natural person, firm, corporation, association, public agency located within or outside the State of Arkansas, or other legally recognized entity;

(14) "Public utility corporation" means any public utility as defined in § 23-1-101;

(15) "Revenue bonds" means bonds described in and under the authority of § 14-217-109(c);

(16) "Sewer system" means any system for the collection, transmission, treatment, or disposal of liquid or solid industrial or domestic waste; and

(17) "Water system" means any system for the acquisition, treatment, storage, transmission, or delivery of water.

History. Acts 1975, No. 490, § 3; A.S.A. 1947, § 20-1903; Acts 2007, No. 45, § 1; 2009, No. 163, § 6; 2019, No. 383, § 23.

Amendments. The 2019 amendment, in the introductory language, substituted "As" for "Whenever" and deleted "unless the context otherwise requires" from the end; and redesignated the definitions in alphabetical order.

SUBTITLE 14. SOLID WASTE DISPOSAL, WATERWORKS, AND SEWERS GENERALLY

CHAPTER 229

GENERAL PROVISIONS

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

RESEARCH REFERENCES

ALR. Validity of local regulation of hazardous waste. 67 A.L.R.4th 822.

14-229-101. Individual Sewage Disposal Systems Advisory Committee — Creation — Members.

(a) There is established an advisory committee to be known as the "Individual Sewage Disposal Systems Advisory Committee", for the purpose of making recommendations, advising, and providing assistance to the Program Administrator of the Environmental Program Section of the Division of Environmental Health Protection of the Department of Health concerning the utilization and application of alternate and experimental individual sewage disposal systems.

(b) The advisory committee shall consist of fourteen (14) members, to be appointed as follows:

(1) A member of the Arkansas Home Builders Association, to be appointed by the President of the Arkansas Home Builders Association;

(2) A member of the Arkansas Real Estate Commission, to be appointed by a majority vote of the commission;

(3) A member of the Arkansas Realtors Association, to be appointed by the President of the Arkansas Realtors Association;

(4)(A) One (1) member who shall be a currently serving or former member of the board of a suburban improvement district or an officer or member of an association of property owners created by and pursuant to state law and organized for the purpose of maintaining common facilities, including sewage disposal facilities, in unincorporated subdivisions in this state, to be named by the Governor.

(B) However, in making the appointment, the Governor shall name a person who has been a developer or a member or officer of the board of a development company that has developed large unincorporated subdivisions in two (2) or more counties in this state;

(5) One (1) member who is a registered septic tank installer, to be appointed by the Governor;

(6) One (1) member who is a certified designated representative, to be appointed by the Governor;

(7) Two (2) members who are interested in individual sewage disposal systems research from the University of Arkansas, to be named by the President of the University of Arkansas;

(8) Three (3) members involved with the individual sewage disposal systems program of the Department of Health, to be appointed by the Secretary of the Department of Health;

(9) The Director of the Division of Environmental Quality or a designee;

(10) The State Conservationist of the United States Natural Resources Conservation Service or a designee; and

(11) The State Geologist with the Arkansas Geological Survey or a designee.

(c)(1) The eight (8) members of the advisory committee appointed to serve thereon in the manner set forth in subdivisions (b)(1)-(7) of this section shall be appointed for terms of four (4) years.

(2) A vacancy in the term of any member due to death, resignation, or other cause shall be filled in the manner provided in this section for the original appointment for the unexpired portion of the term.

(d) Members of the advisory committee shall serve without pay but may receive expense reimbursement in accordance with § 25-16-901 et seq.

(e)(1)(A) The advisory committee shall elect from its membership a chair, a vice chair, and a secretary-treasurer, who shall each serve a term of one (1) year.

(B) Officers shall be eligible for election to succeed themselves.

(2) The advisory committee shall establish its own rules of procedure.

(3) The advisory committee shall meet upon call by the chair, at the request of any five (5) members of the committee stated in writing, at the request of the Director of the Division of Environmental Health Protection of the Department of Health, or upon call by the Secretary of the Department of Health.

History. Acts 1983, No. 708, § 1; A.S.A. 1947, § 19-5415; Acts 1991, No. 185, § 1; 1993, No. 129, § 1; 1993, No. 145, § 1; 1997, No. 250, § 89; 1999, No. 1164, § 126; 2007, No. 189, §§ 1, 2; 2019, No. 910, §§ 4856, 4857.

Amendments. The 2019 amendment substituted "Secretary of the Department of Health" for "Director of the Department of Health" in (b)(8) and (e)(3); and substituted "Division of Environmental Quality" for "Arkansas Department of Environmental Quality" in (b)(9).

14-229-102. Individual Sewage Disposal Systems Advisory Committee — Powers and duties.

The Individual Sewage Disposal Systems Advisory Committee shall have the following powers and duties:

(1) To advise with and make recommendations to the Secretary of the Department of Health and the Director of the Division of Environmental Health Protection of the Department of Health, concerning the utilization and application of alternate and experimental individual sewage disposal systems;

(2) To advise with and assist the Division of Environmental Health Protection of the Department of Health in efforts to promote the experimentation, development, and improvement of individual sewage disposal systems;

(3) To advise with and assist the division in the development and implementation of:

(A) Training and educational programs for employees of the division to acquaint the employees with technological advances in the

development of experimental and alternate systems for individual sewage disposal systems;

(B) Opportunities for employees of the division to participate in seminars and other training programs designed for their technological advancement, including the promulgation of guidelines and regulations for reimbursement of expenses for employees who engage in the training opportunities;

(C) The acquisition of laboratory testing equipment necessary for the conducting of experiments and testing of experimental and alternate individual sewage disposal systems;

(D) The acquisition of necessary field supplies and equipment to enable the division to engage in necessary field activities to assist property owners in the installation, operation, and repair of experimental and alternate individual sewage disposal systems, and to enable the Department of Health to offer technical advice, when requested by property owners, with respect to the operation or repair of the equipment;

(E) To provide, if funds are available, technical assistance, materials, and equipment required for the modification or repair of experimental and alternate individual sewage disposal systems, which have been installed by property owners under permits issued by the department, of equipment approved by the department as being adequate to meet state individual sewage disposal systems standards; and

(F) To cooperate with and offer assistance to other public agencies, private developers, and home owners in the development, installation, operation, repair, modification, and improvement of experimental and alternate individual sewage disposal systems for the purpose of developing the necessary technological advancements required to meet the standards prescribed by the division for the installation and operation of individual sewage disposal systems deemed adequate to function, in accordance with the standards in the particular area in which the systems are to be installed;

(4)(A) If a firm, person, or corporation violates any provision of the Arkansas Sewage Disposal Systems Act, § 14-236-101 et seq., or the rules or orders promulgated or issued by the State Board of Health or violates any condition of a license, permit, certificate, or any other type of registration, the committee may assess a civil penalty and suspend or revoke the license, permit certificate, or other type of registration of the firm, person, or corporation.

(B) A civil penalty assessed under subdivision (4)(A) of this section shall not exceed one thousand dollars ($1,000) for each violation.

(C) Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessments.

(D) All fines collected under this section shall be deposited into the State Treasury and credited to the Public Health Fund to be used to defray the costs of administering the individual sewage disposal systems program.

(E) Subject to rules that may be implemented by the Chief Fiscal Officer of the State, the disbursing officer for the department may transfer all unexpended funds relative to fines collected under this section, as certified by the Chief Fiscal Officer of the State, to be carried forward and made available for expenditures for the same purpose for any following fiscal year;

(5)(A) An applicant or interested party seeking review of a final agency decision regarding a permit under the Arkansas Sewage Disposal Systems Act, § 14-236-101 et seq., or the rules adopted by the State Board of Health under the Arkansas Sewage Disposal Systems Act, § 14-236-101 et seq., shall file a written appeal for a hearing before the committee within thirty (30) days after the receipt of the agency decision.

(B) An appeal to the committee shall be conducted in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.; and

(6)(A) After a hearing held under subdivision (4) or subdivision (5) of this section, a person who considers himself or herself injured in his or her person, business, or property by a final committee action is entitled to a review of the action by the State Board of Health.

(B) A person shall institute a proceeding for review under subdivision (6)(A) of this section by filing a petition with the department within thirty (30) days after service upon the person of the committee's final decision.

History. Acts 1983, No. 708, § 2; A.S.A. 1947, § 19-5416; Acts 2007, No. 189, § 3; 2011, No. 822, § 1; 2019, No. 910, § 4858.

Amendments. The 2019 amendment substituted "Secretary of the Department of Health" for "Director of the Department of Health" in (1).

14-229-103. Termination of water service — Definition.

(a) A municipality owning or operating a public sewer system or sewer improvement district that provides sewer service to its citizens may request a water association, a water improvement district, or a water authority that provides the water service to terminate the water service to a resident who is delinquent at least thirty (30) days in making payment to the municipality for sewer service or solid waste service.

(b) The water association, water improvement district, or water authority shall send notice to a person who is delinquent in making payments for sewer service or solid waste service of the date the water service will be terminated and shall terminate the water service upon that date unless the balance due the municipality for sewer service or solid waste service is paid.

(c) The water association, water improvement district, or water authority shall terminate the water service upon certification by the municipality that the person:

(1) Is more than thirty (30) days delinquent in making payments for sewer service or solid waste service; and

(2) Has been sent notice of the termination of the water service as required under subsection (b) of this section.

(d) As used in this section, "water authority" means the public body politic and governmental entity organized under the Water Authority Act, § 4-35-101 et seq.

History. Acts 1995, No. 717, § 1; 2009, No. 195, § 1.

14-229-104. Rural water and wastewater entities — Electronic funds transfers.

All rural water and rural wastewater entities, however organized, may disburse funds for payment of debts by electronic funds transfer if:

(1) The person responsible for the disbursement maintains a ledger including without limitation the following information:

(A) The name and address of the entity receiving payment;

(B) The routing number of the bank in which the funds are held;

(C) The account number and the accounts clearinghouse trace number pertaining to the transfer; and

(D) The date and amount transferred; and

(2) Written consent for payment by electronic funds transfer is given by the entity to whom the transfer is made.

History. Acts 2009, No. 642, § 2.

CHAPTER 230

WATER, SEWER, AND SOLID WASTE MANAGEMENT FINANCING

SECTION.

14-230-107. Applications for grants.

(a) The commission shall promulgate such rules and forms as are needed for the efficient administration of the chapter.

(b) Applications shall be submitted to the commission.

(c)(1) The commission shall consider the merits of the application and, in accordance with the criteria for selection and the available funds, make a final determination concerning the disposition of the application.

(2) The director of the commission shall, within ten (10) days, notify the applicant of the final action of the commission in accepting, modifying, or rejecting the application.

History. Acts 1975, No. 274, § 5; A.S.A. 1947, § 13-2205; Acts 1989, No. 220, § 5; 1997, No. 960, § 5; 2019, No. 315, § 1014.

Amendments. The 2019 amendment deleted "regulations" following "rules" in (a).

CHAPTER 233

JOINT COUNTY AND MUNICIPAL SOLID WASTE DISPOSAL

Effective Dates. Acts 2001, No. 611, § 2: Mar. 7, 2001. Emergency clause provided: "It is found and determined by the General Assembly that county industrial development corporations should recommend an additional director of joint solid waste disposal authorities in order to give the authorities greater awareness of the impact solid waste issues have upon economic development of the area; that this act so provides; and that until this act becomes effective the flexibility and effectiveness of the authorities will be hampered. Therefore an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

Acts 2007, No. 599, § 9: Mar. 28, 2007. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that that there is an urgent need to provide additional safe and sanitary solid waste and wastewater collection, treatment, and disposal facilities; that the best method of financing such facilities is by the issuance of revenue bonds; and that this act is immediately necessary to facilitate the prompt and efficient provision of safe and sanitary solid waste and wastewater collection, treatment, and disposal facilities. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-233-102. Definitions.

As used in this chapter:

(1) "Board of directors" or "board" means the board of directors of a sanitation authority created under this chapter;

(2) "Bonds" means bonds and any series of bonds authorized by and issued pursuant to the provisions of this chapter;

(3) "Clerk" means the county clerk of a county and the city clerk, city recorder, town recorder of a municipality, or other similar office of a county or municipality hereafter created or established;

(4) "Costs" or "project costs" means, but is not limited to:

(A) All costs of acquisition, construction, reconstruction, improvement, enlargement, betterment, or extension of any project, including the cost of studies, plans, specifications, surveys, and estimates of costs and revenues relating to them;

(B) All costs of land, land rights, rights-of-way and easements, water rights, fees, permits, approvals, licenses, certificates, and franchises, and the preparation of applications for and securing them;

(C) Administrative, organizational, legal, engineering, and inspection expenses;

(D) Financing fees, expenses, and costs;

(E) Working capital;

(F) All machinery and equipment, including construction equipment;

(G) Interest on the bonds during the period of construction and for such a reasonable period thereafter as may be determined by the issuing sanitation authority;

(H) Establishment of reserves; and

(I) All other expenditures of the issuing sanitation authority incidental, necessary, or convenient to the acquisition, construction, reconstruction, improvement, enlargement, betterment, or extension of any project and the placing of it in operation;

(5) "County" means any county in this state;

(6) "District" means an entity established pursuant to § 14-114-101 et seq., the Interstate Watershed Cooperation Act, § 14-115-101 et seq., The Regional Water Distribution District Act, § 14-116-101 et seq., the Arkansas Irrigation, Drainage, and Watershed Improvement District Act of 1949, § 14-117-101 et seq., § 14-118-101 et seq., The Water Improvement District Accounting Law of 1973, § 14-119-101 et seq., § 14-120-101 et seq., § 14-121-101 et seq., § 14-122-101 et seq., § 14-123-201 et seq., § 14-124-101 et seq., the Conservation Districts Law, § 14-125-101 et seq., the Central Business Improvement District Act, § 14-184-101 et seq., the Metropolitan Port Authority Act of 1961, § 14-185-101 et seq., § 14-186-101 et seq., § 14-187-101 et seq., the Rural Development Authority Act, § 14-188-101 et seq., § 14-249-101 et seq., the Wastewater Treatment Districts Act, § 14-250-101 et seq., and § 14-251-101 et seq.;

(7) "Governing body" means the quorum court of a county and the council, board of directors, commission, or other governing body of a municipality or district;

(8) "Member" means a municipality, county, or district that participates jointly through a sanitation authority with other municipalities or counties in projects under this chapter;

(9) "Municipality" means a city of the first class, city of the second class, or an incorporated town;

(10) "Person" means any natural person, firm, corporation, nonprofit corporation, association, or improvement district;

(11)(A) "Project" means any real property, personal property, or mixed property of any kind that can be used or will be useful in:

(i) Controlling, collecting, storing, removing, handling, reducing, disposing of, treating, and otherwise dealing in and concerning solid waste, including without limitation, property that can be used or that will be useful in extracting, converting to steam, including the acquisition, handling, storage, and utilization of coal, lignite, or other fuel of any kind, or water that can be used or will be useful in converting solid waste to steam, and distributing the steam to users thereof, or otherwise separating and preparing solid waste for reuse, or that can be used or will be useful in generating electric energy by the use of solid waste as a source of generating power and distributing the electric energy to purchasers or users thereof in accordance with the general laws of the state; or

(ii) Collecting, pumping, disposing of, treating, or otherwise dealing in wastewater, sludge, or treated effluent.

(B) For purposes of this chapter, not more than twenty-five percent (25%) of the fuel used to produce steam or generate electricity from any project shall consist of materials other than solid waste;

(12) "Sanitation authority" or "authority" means a public body and body corporate and politic organized in accordance with the provisions of this chapter;

(13) "Solid waste" means any:

(A) Garbage, refuse, or sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility; and

(B) Other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities; and

(14) "State" means the State of Arkansas.

History. Acts 1979, No. 699, § 2; 1985, No. 678, § 1; A.S.A. 1947, § 82-2732; Acts 2005, No. 689, § 1; 2007, No. 599, § 1.

14-233-104. Creation of authority — General powers and restrictions.

(a)(1) Any two (2) or more municipalities or suburban improvement districts, any two (2) or more counties, or any one (1) or more municipalities or suburban improvement districts together with any

one (1) or more counties are authorized to create and become members of a sanitation authority as prescribed in this chapter.

(2) Any city of the first class, city of the second class, or incorporated town may create a sanitation authority under this chapter, and the sanitation authority shall have the same powers as other sanitation authorities vested under this chapter.

(3) Any district may become a member of a sanitation authority if approved for membership unanimously by the other members.

(b)(1) Each authority may be empowered to own, acquire, construct, reconstruct, extend, equip, improve, operate, maintain, sell, lease, contract concerning, or otherwise deal in or dispose of a project.

(2) Unless limited by the members of the authority in the manner provided in this chapter, any project may be located at any place that in the judgment of the board of directors of the authority best serves the needs of the member governments, whether within or without the boundaries of the member governments.

(c) All projects accomplished by sanitation authorities pursuant to the provisions of this chapter shall be subject to all applicable federal and state requirements for the disposal, treatment, or other handling of solid waste.

History. Acts 1979, No. 699, § 3; A.S.A. 1947, § 82-2733; Acts 1991, No. 962, § 1; 2005, No. 689, § 2; 2005, No. 927, § 2.

14-233-105. Contents of ordinance — Filing of application — Certificate of incorporation — Amendments.

(a)(1) The governing body of each municipality and county desiring to create and become a member of a sanitation authority may determine by ordinance that it is in the best interest of the municipality or county in accomplishing the purposes of this chapter to create and become a member of an authority.

(2) The governing body of each district desiring to become a member of a sanitation authority may determine by resolution that it is in the best interest of the district to become a member of an authority.

(b) The ordinance or resolution shall:

(1) Set forth the names of the municipalities, counties, or districts which are proposed to be members of the authority;

(2) Specify the powers to be granted to the authority and any limitations on the exercise of the powers granted, including limitations on the authority's area of operations, the use of projects by the authority, and the authority's power to issue bonds;

(3) Specify the number of directors of the authority and the voting rights of each director;

(4) Approve an application to be filed with the Secretary of State, setting forth:

(A) The names of all proposed members;

(B) Copies of all ordinances or resolutions certified by the respective clerks or secretaries;

(C) The powers granted to the authority and any limitations on the exercise of the powers granted;

(D) The number of directors of the authority and the voting rights of each director;

(E) The desire that an authority be created as a public body and a body corporate and politic under this chapter; and

(F) The name which is proposed for the authority.

(c)(1) The application shall be:

(A) Signed by the mayor of each municipality, county judge of each county, and presiding officer of each district;

(B) Attested by the respective clerks and secretaries; and

(C) Subscribed and sworn to before an officer or officers authorized by the laws of this state to administer and certify oaths.

(2)(A) The Secretary of State shall examine the application.

(B) If he or she finds that the name proposed for the authority is not identical with that of any other corporation of this state or of any agency or instrumentality of this state or not so nearly similar as to lead to confusion and uncertainty, he or she shall receive and file it and shall record it in an appropriate book of record in his or her office.

(3) When the application has been made, filed, and recorded as provided in this chapter, the authority shall constitute a public body and a body corporate and politic under the name proposed in the application.

(d)(1) The Secretary of State shall make and issue a certificate of incorporation pursuant to this chapter under the seal of the state and shall record the certificate with the application.

(2) The certificate shall set forth the names of the members.

(e)(1) In any suit, action, or proceeding involving the validity or enforcement of, or relating to, any contract of the authority, the authority, in the absence of establishing fraud in the premises, shall be conclusively deemed to have been established in accordance with the provisions of this chapter upon proof of the issuance of the certificate by the Secretary of State.

(2) A copy of the certificate, certified by the Secretary of State, shall be admissible in evidence in the suit, action, or proceeding and shall be conclusive proof of the filing and contents of the certificate.

(f)(1) Any application filed with the Secretary of State pursuant to the provisions of this chapter may be amended from time to time with the unanimous consent of the members of the authority as evidenced by ordinance or resolution of their governing bodies.

(2) The amendment shall be signed and filed with the Secretary of State in the manner provided in this section, whereupon the Secretary of State shall make and issue an amendment to the certificate of incorporation.

(g)(1) The county quorum court may appoint one (1) additional director to the authority upon the recommendation of the county industrial development corporation.

(2) That additional director shall be a full voting director.

History. Acts 1979, No. 699, § 4; A.S.A. 1947, § 82-2734; Acts 2001, No. 611, § 1; 2005, No. 689, § 3.

14-233-106. New members — Withdrawal of old members.

(a)(1) After the creation of a sanitation authority, any other municipality, county, or district may become a member upon application to the authority, after adoption of an ordinance or resolution by its governing body making the determination prescribed in § 14-233-105 and authorizing the municipality, county, or district to participate, and with the unanimous consent of the members of the authority evidenced by ordinance or resolution of their governing bodies.

(2) Copies of the ordinances or resolutions, certified by the respective clerks or secretaries of the member municipalities, counties, and districts, together with an amendment to the application signed by the county judge, mayor, or presiding officer of each member and prospective member in the manner provided in § 14-233-105, shall be filed with the Secretary of State, whereupon the Secretary of State shall make and issue an amendment to the certificate of incorporation setting forth the then-current names of the member municipalities, counties, and districts.

(b)(1) Any municipality, county, or district may withdraw from a sanitation authority at any time without the consent of the other members of the authority. All contractual rights acquired and obligations incurred while the municipality, county, or district was a member shall remain in full force and effect.

(2) The withdrawal shall become effective upon the adoption of an ordinance by the withdrawing municipality or county or, in the case of a district, the adoption of a resolution, and the filing of the ordinance or resolution with the Secretary of State together with an amendment signed by the mayor of the withdrawing municipality, the county judge of the withdrawing county, or the presiding officer of a district in the manner provided in § 14-233-105, whereupon the Secretary of State shall make and issue an amendment to the certificate of incorporation setting forth the then-current names of the member municipalities, counties, and districts.

History. Acts 1979, No. 699, § 4; A.S.A. 1947, § 82-2734; Acts 2005, No. 689, § 4.

14-233-107. Specific powers of authority.

Each sanitation authority shall have all of the rights and powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including, but without limiting the generality of the foregoing, the rights and powers:

(1) To have perpetual succession as a body politic and corporate, and to adopt bylaws for the regulation of the affairs and the conduct of its

business, and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties;

(2) To adopt an official seal and alter it at pleasure;

(3) To maintain an office at such places as it may determine;

(4) To sue and be sued in its own name and to plead and be impleaded;

(5) To make and execute contracts and other instruments necessary or convenient in the exercise of the powers and functions of the authority under this chapter, including contracts with persons, firms, corporations, and others;

(6) To apply to the appropriate agencies of the state, the United States, or any state thereof, and to any other proper agency for such permits, licenses, certificates, or approvals as may be necessary, and to construct, maintain, and operate projects in accordance with, and to obtain, hold and use licenses, permits, certificates, or approvals in the same manner as any other person or operating unit of any other person;

(7) To employ such engineers, architects, attorneys, real estate counselors, appraisers, financial advisors, and other consultants and employees as may be required in the judgment of the authority and to fix and pay their compensation from funds available to the authority therefor;

(8) To purchase all kinds of insurance including, but not limited to, insurance against tort liability, business interruption, and risks of damage to property;

(9) To fix, charge, and collect rents, fees, and charges for the use of any project or portion thereof or for steam produced therefrom;

(10) To accomplish projects as authorized by this chapter and the ordinances creating the authority;

(11) To distribute steam produced by a project to any person, municipality, or county;

(12) To do any and all other acts and things necessary, convenient, or desirable to carry out the purposes and to exercise the powers granted to the authority by this chapter;

(13) To contract for the sale of electric energy produced by any such project, or to consume electric energy produced by any project;

(14) To own and operate as a project any public work authorized by law and undertaken by the authority for public use or benefit, including, but not limited to, wastewater treatment facilities, collection mains, interceptors, force mains, pump stations, and other appurtenances for collection, pumping, treatment, and disposal of wastewater, sludge, or treated effluent; and

(15)(A) To have and exercise the power of eminent domain for the purpose of acquiring rights-of-way, easements, other properties necessary in the construction or operation of its projects, property, or business under subdivision (14) of this section and exercised through the procedures under §§ 14-235-201 — 14-235-205 and 14-235-210.

(B) However, if an authority is created by two (2) or more municipalities, the authority shall disclose its intent to exercise the power of

eminent domain by conducting an informational hearing before the quorum court of the county in which the power of eminent domain is exercised.

History. Acts 1979, No. 699, § 6; 1985, No. 678, § 4; A.S.A. 1947, § 82-2736; Acts 2003, No. 342, § 1.

14-233-108. Board of directors — Executive committee.

(a) Each sanitation authority shall consist of a board of directors appointed by the governing bodies of the members of the authority.

(b)(1) The number and voting rights of directors shall be determined as set forth in § 14-233-105 and shall not thereafter be changed except by unanimous consent of the members of the authority as evidenced by ordinances or resolutions of their governing bodies.

(2) Copies of all such ordinances or resolutions, certified by the respective clerks of the member municipalities and counties or secretaries of the member districts shall be filed with the Secretary of State.

(c) Before entering upon his or her duties, each appointed director shall take and subscribe to an oath of office in which he or she shall swear to support the United States Constitution and the Arkansas Constitution and to discharge faithfully his or her duties in the manner provided by law.

(d)(1) Except as may otherwise be provided in the application organizing the sanitation authority, the board of directors of the sanitation authority shall annually elect one (1) of the directors as chair, another as vice chair, and other persons, who may be but need not be directors, as treasurer, secretary, and if desired, assistant secretary. The office of treasurer may be held by the secretary or assistant secretary.

(2) The board of directors may also appoint such additional officers as it deems necessary.

(3) In the event the board of directors is organized so that no members of the board are actively involved in the actual handling and accounting for sanitation authority funds, the board of directors shall be authorized to waive any requirement for the purchase of a surety bond for the members of the board of directors.

(e)(1) The secretary or assistant secretary of the authority shall keep a record of the proceedings of the authority. The secretary shall be the custodian of all records, books, documents, and papers filed with the authority, the minute book or journal of the authority, and its official seal.

(2) Either the secretary or the assistant secretary of the authority may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under the official seal of the authority to the effect that the copies are true copies. All persons dealing with the authority may rely upon such certificates.

(f)(1) A majority of the directors of a sanitation authority then in office shall constitute a quorum. A vacancy in the board of directors of

the authority shall not impair the right of a quorum to exercise all the rights and perform all the duties of the authority.

(2) Any action taken by the authority under the provisions of this chapter may be authorized by resolution at any regular or special meeting. Each resolution shall take effect immediately and need not be published or posted. A majority of the votes which all directors are entitled to cast shall be necessary and sufficient to take any action or to pass any resolution.

(g) No director of a sanitation authority shall receive any compensation for the performance of his or her duties under this chapter, but each director shall be paid:

(1) A per diem allowance of one hundred fifty dollars ($150) for attending each meeting of the board unless the board of directors sets a different per diem allowance by board resolution; and

(2) His or her necessary expenses incurred while engaged in the performance of such duties.

(h) The board of directors of a sanitation authority may create an executive committee of the board and may provide for the composition of the executive committee so as to afford, in its judgment, fair representation of the member municipalities and counties. The executive committee shall have and exercise the powers and authority of the board of directors during intervals between the board's meetings as may be prescribed by its rules, motions, or resolutions. The terms of office of the members of the executive committee and the method of filling vacancies shall be fixed by the rules of the board of directors of the authority.

History. Acts 1979, No. 699, § 5; 1985, No. 678, § 2; A.S.A. 1947, § 82-2735; Acts 1993, No. 170, § 1; 1999, No. 472, § 1; 2005, No. 689, § 5; 2007, No. 595, § 1.

14-233-109. Bonds — Issuance, public hearing, execution, and sale.

(a) Sanitation authorities are authorized to use any available funds and revenues for the accomplishment of projects and may issue bonds, as authorized by this chapter, for the purpose of paying, financing, and refinancing project costs and accomplishing projects, either alone or together with other available funds and revenues.

(b)(1)(A) Prior to a sanitation authority's proposed issuance of bonds, the sanitation authority shall publish one (1) time in a newspaper of general circulation in each county that is a member of the sanitation authority and in each county in which a member of the sanitation authority is located:

(i) Notice of the proposed issuance of bonds;

(ii) The maximum principal amount of bonds contemplated to be sold;

(iii) A general description of the project contemplated to be financed or refinanced with bond proceeds; and

(iv) The date, time, and location of a public hearing at which members of the public may obtain further information regarding the bonds and the development of the project.

(B)(i) The location of the public hearing described in subdivision (b)(1)(A)(iv) of this section shall be in the county in which the project is located.

(ii) If the project is located in more than one (1) county, the location of the public hearing shall be in the county that has the greatest amount of territory of the counties in which the project is located.

(C) Notice under subdivision (b)(1)(A) of this section shall be published at least ten (10) days prior to the date of the hearing described in subdivision (b)(1)(A)(iv) of this section.

(2) A sanitation authority chair or his or her designee shall be responsible for conducting the hearing and shall request all public comments that might pertain to the proposed issuance of bonds by the sanitation authority.

(3)(A) Upon compliance with the provisions of this section, no other notice, hearing, or approval by any other entity or governmental unit shall be required as a condition to the issuance by a sanitation authority of its contemplated bonds.

(B) The provisions of the Revenue Bond Act of 1987, § 19-9-601 et seq., do not apply to this section.

(4) The requirements of this subsection shall not apply to the issuance of bonds to refund bonds of the sanitation authority for which a public hearing was held.

(c)(1) The issuance of bonds shall be by resolution of the board of the sanitation authority.

(2) The bonds may be coupon bonds payable to bearer, subject to registration as to principal or as to principal and interest, or fully registered bonds without coupons, may contain exchange privileges, may be issued in one (1) or more series, may bear such date or dates, may mature at such time or times, not exceeding forty (40) years from their respective dates, may bear interest at such rate or rates, may be in such form, may be executed in such manner, may be payable in such medium of payment, at such place or places, may be subject to such terms of redemption in advance of maturity at such prices, and may contain such terms, covenants, and conditions as the resolution may provide, including without limitation those pertaining to the custody and application of the proceeds of the bonds, the collection and disposition of revenues, the maintenance of various funds and reserves, the investing and reinvesting of any moneys during periods not needed for authorized purposes, the nature and extent of the security, the rights, duties, and obligations of the authority and the trustee for the holders or registered owners of the bonds, and the rights of the holders or registered owners of the bonds.

(d) There may be successive bond issues for the purpose of financing the same project, and there may be successive bond issues for financing the cost of reconstructing, replacing, constructing additions to, extend-

ing, improving, and equipping projects already in existence, whether or not originally financed by bonds issued under this chapter, with each successive issue to be authorized as provided by this chapter. Priority between and among issues and successive issues as to security of the pledge of revenues and lien on the sanitation authority's properties involved may be controlled by the resolution authorizing the issuance of the bonds.

(e) Subject to the provisions of this chapter pertaining to registration, the bonds shall have all the qualities of negotiable instruments under the laws of the State of Arkansas.

(f) The bonds may be sold at public or private sale for such price, including without limitation sale at a discount and in such manner the authority may determine by resolution.

(g) Bonds issued under this chapter shall be executed by the manual or facsimile signatures of the chair and secretary of the board, but one (1) of such signatures must be manual. The coupons attached to the bonds may be executed by the facsimile signature of the chair of the board. In case any of the officers whose signatures appear on the bonds or coupons shall cease to be officers before the delivery of the bonds or coupons, their signatures shall nevertheless be valid and sufficient for all purposes. The seal of the sanitation authority shall be placed or printed on each bond in such manner as the board shall determine.

History. Acts 1979, No. 699, § 7; 1985, No. 678, § 3; A.S.A. 1947, § 82-2737; Acts 2007, No. 599, § 2.

14-233-110. Bonds — Trust indenture.

(a) The resolution authorizing the bonds may provide for the execution by the authority with a bank or trust company within or without this state of a trust indenture that defines the rights of the holders and registered owners of the bonds.

(b) The resolution or indenture may control the priority between and among successive issues and may contain any other terms, covenants, and conditions that are deemed desirable, including without limitation those pertaining to the custody and application of proceeds of the bonds, the maintaining of rates and charges, the collection and disposition of revenues, the maintenance of various funds and reserves, the nature and extent of the security and pledging of revenues, the rights, duties, and obligations of the agency and the trustee for the holders or registered owners of the bonds, and the rights of the holders and registered owners of the bonds.

(c) The resolution or trust indenture authorizing or securing any bonds issued under this chapter may or may not impose a foreclosable mortgage lien upon or security interest in the project financed in whole or in part with the proceeds of the bonds or other properties of the authority, and the nature and extent of the mortgage lien or security interest may be controlled by the resolution or trust indenture, includ-

ing without limitation provisions pertaining to the release of all or part of the authority's properties from the mortgage lien or security interest and the priority of the mortgage lien or security interest in the event of the issuance of additional bonds.

(d) Subject to the terms, conditions, and restrictions that may be contained in the resolution or trust indenture, any holder or registered owner of bonds issued under this chapter or of any coupon attached thereto may either at law or in equity enforce the mortgage lien or security interest and may by proper suit compel the performance of the duties of the members and employees of the sanitation authority as set forth in the resolution or trust indenture authorizing or securing the bonds.

History. Acts 1979, No. 699, § 7; A.S.A. 1947, § 82-2737; Acts 2007, No. 599, § 3.

14-233-112. Bonds — Liability — Payment and security.

(a) It shall be plainly stated on the face of each bond that it has been issued under the provisions of this chapter, that the bonds are obligations only of the sanitation authority, and that in no event shall they constitute an indebtedness for which the faith and credit of the member municipalities, counties, or districts or any of their revenues are pledged.

(b) No member of the board of directors shall be personally liable on the bonds or for any damages sustained by anyone in connection with any contracts entered into in carrying out the purpose and intent of this chapter unless he or she shall have acted with corrupt intent.

(c) The principal of and interest on the bonds shall be payable from and may be secured by a pledge of revenues received by the sanitation authority or obligations of the owners of projects.

History. Acts 1979, No. 699, § 8; A.S.A. 1947, § 82-2738; Acts 2005, No. 689, § 6; 2007, No. 599, § 4.

14-233-113. Refunding bonds — Issuance.

(a) Bonds may be issued for the purpose of refunding any bonds issued under this chapter or any other interest-bearing indebtedness of the sanitation authority. Refunding bonds may be combined with bonds issued under the provisions of § 14-233-109 into a single issue.

(b) When refunding bonds are issued, they may either be sold or delivered in exchange for the bonds being refunded. If sold, the proceeds may either be applied to the payment of the bonds or indebtedness being refunded or deposited in escrow for the retirement thereof.

(c) The resolution under which refunding bonds are issued may provide that any of the refunding bonds shall have the same priority of lien on and security interest in sanitation authority revenues and the

sanitation authority's properties as was enjoyed by the bonds refunded by them.

History. Acts 1979, No. 699, § 9; A.S.A. 1947, § 82-2739; Acts 2007, No. 599, § 5.

14-233-114. Contracts with municipalities or counties — Rates, fees, and charges — Pledges.

(a) Any municipality or county that is a member of a sanitation authority may contract with the authority to utilize any project upon any terms and conditions as are deemed necessary, convenient, or desirable by the municipality or county and the authority including without limitation agreements on the part of the municipality or county for any period of time:

(1) To deliver all solid waste collected by or on behalf of the municipality or county to a particular project for disposal, treatment, or other handling;

(2) To prohibit by ordinance or other legal means the disposal, treatment, or other handling of solid waste within the corporate boundaries of the municipality or county by persons other than the sanitation authority or any person designated by the sanitation authority; and

(3) To deliver all or a certain amount of wastewater, sludge, or treated effluent from its sewer system to the project.

(b) Any municipality or county that is a member of a sanitation authority may:

(1) Require by ordinance or other legal means that solid waste generated or collected within the corporate boundaries of the municipality or county be delivered to a particular project for disposal, treatment, or other handling;

(2) Prohibit by ordinance or other legal means the collection, disposal, treatment, or other handling of solid waste within the corporate boundaries of the municipality or county by persons other than the municipality or county, the sanitation authority, or any persons designated by the municipality or county or the sanitation authority;

(3) Provide by ordinance or other legal means that no person other than as may be designated by the municipality or county or the sanitation authority shall engage in the collection or utilization of solid waste within the corporate boundaries of the municipality or county that would be competitive with the purposes or activities of the sanitation authority as provided in this chapter; and

(4) Covenant in connection with the issuance of bonds, notes, or other evidence of indebtedness to adopt any ordinance described in subdivisions (b)(1)-(3) of this section and that any ordinance so adopted shall remain in full force and effect and shall be enforced so long as any bonds, notes, or other evidences of indebtedness remain outstanding.

(c) A sanitation authority is authorized to fix, charge, and collect rates, fees, and charges for disposal, treatment, or other handling of

solid waste, wastewater, sludge, or treated effluent at a project. If duly authorized by the municipal or county members of a sanitation authority, the sanitation authority may implement the collection procedures through the personal property tax system provided for by § 8-6-211 or § 8-6-212. For as long as any bonds are outstanding and unpaid, the rates, fees, and charges shall be so fixed by the authority as to provide revenues sufficient:

(1) To pay all costs of and charges and expenses in connection with the proper operation and maintenance of its projects and all necessary repairs, replacements, or renewals thereof;

(2) To pay when due the principal of, premium, if any, and interest on all bonds, including bonds subsequently issued for additional projects, payable from the revenues;

(3) To create and maintain reserves as may be required by any resolution or trust indenture authorizing or securing bonds; and

(4) To pay any and all amounts that the sanitation authority may be obligated to pay from project revenues by law or contract.

(d) Any pledge made by a sanitation authority pursuant to this chapter shall be valid and binding from the date the pledge is made. The revenues pledged and then held or thereafter received by the sanitation authority or any fiduciary on its behalf shall immediately be subject to the lien of the pledge without any physical delivery thereof or further act. The lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the sanitation authority without regard to whether such parties have notice thereof.

(e) The resolution, trust indenture, or other instrument by which a pledge is created need not be filed or recorded in any manner.

History. Acts 1979, No. 699, § 10; 1985, No. 678, § 5; A.S.A. 1947, § 82-2740; Acts 1991, No. 1007, § 3; 2007, No. 599, § 6.

14-233-119. Transfer of facilities to authority by county or municipality.

(a)(1) Any municipality or county may acquire facilities for a project or any portion thereof, including a project site, by gift, purchase, lease, or condemnation, and may transfer the facilities to a sanitation authority by sale, lease, or gift.

(2) The transfer may be authorized by ordinance of the governing body without regard to the requirements, restrictions, limitations, or other provisions contained in any other law.

(b) Any municipality may also contribute funds from its sewer system, grant funds, or proceeds of revenue bonds issued by it to pay, in whole or in part, the cost of a project which will be utilized by the municipality.

History. Acts 1979, No. 699, § 15; A.S.A. 1947, § 82-2745; Acts 2007, No. 599, § 7.

14-233-122. Purchasing procedures.

The board of each sanitation authority shall adopt county purchasing procedures, as provided in § 14-22-101 et seq., as the approved purchasing procedures for the sanitation authority.

History. Acts 1995, No. 163, § 2; 2007, No. 599, § 8.

CHAPTER 234

WATERWORKS AND WATER SUPPLY

SUBCHAPTER.

Subchapter 1 — General Provisions

SECTION.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

14-234-102. Construction.

CASE NOTES

Cited: Davis v. City of Blytheville, 2015 Ark. 482, 478 S.W.3d 214 (2015).

14-234-108. Cities of the first class — Sale or purchase of water to other municipalities.

(a)(1) A city of the first class owning or operating a waterworks system may sell, in its governmental capacity, water at contractual rates to another municipality of this state or to an improvement district created under the laws of this state.

(2) A municipality of this state or an improvement district created under the laws of this state may purchase, in its governmental capacity, water at contractual rates from a city of the first class of this state and may expend the necessary funds to connect its distribution system with the supply or other mains of the selling municipality.

(b)(1) The contract between two (2) municipalities of this state for the sale and purchase of water or between a municipality of this state and an improvement district created under the laws of this state for the sale and purchase of water shall be in writing, shall be authorized by ordinances adopted by the respective governing bodies of the contracting municipalities or by ordinance adopted by the governing body of the contracting municipality and by resolution adopted by the board of commissioners of the contracting improvement district, and shall be signed by the mayor of each contracting municipality and by the chair of the board of each contracting improvement district.

(2) Unless the Arkansas Natural Resources Commission is involved in the financing and determines that a different form or length of contract would be best in meeting the long-term water supply needs of the contracting parties, the contract may be for a term not to exceed twenty (20) years and may fix by its terms the rate or rates to be paid for the water for the entire term of the contract or may fix the rate or rates for the first year, two (2) years, or five (5) years, with appropriate provisions for arriving at the rate or rates for each succeeding one-year, two-year, or five-year period.

(3) The contract may also contain other appropriate provisions which will protect the respective interests of the contracting parties.

History. Acts 1949, No. 49, § 5; A.S.A. 1947, § 19-4269.2; Acts 1999, No. 1294, § 1.

14-234-119. Annual audits and procedures.

(a)(1) A county, municipality, improvement district, or not-for-profit association or entity receiving fees from customers for providing sewage services shall obtain an annual financial audit of the system if the

system has at least seven hundred fifty (750) service connections during a fiscal year.

(2) A county, municipality, improvement district, or not-for-profit association or entity receiving fees from customers for providing water services shall obtain an annual financial audit of the system if the system has at least one thousand (1,000) service connections during a fiscal year.

(b)(1)(A) A county, municipality, improvement district, or not-for-profit association or entity receiving fees from customers for providing sewage services and having at least one hundred (100) but less than seven hundred fifty (750) service connections during a fiscal year shall obtain an annual audit or an annual agreed-upon procedures and compilation report.

(B) A county, municipality, improvement district, or not-for-profit association or entity receiving fees from customers for providing water services and having at least one hundred (100) but less than one thousand (1,000) service connections during a fiscal year shall obtain an annual audit or an annual agreed-upon procedures and compilation report.

(2) The agreed-upon procedures and compilation report engagement shall be conducted in accordance with standards established by the American Institute of Certified Public Accountants and subject to minimum procedures prescribed by the Legislative Joint Auditing Committee.

(c) The audits or agreed-upon procedures and compilation reports shall be completed within one (1) year following each system's fiscal year end.

(d) Each entity shall choose and employ accountants who are licensed and in good standing with the Arkansas State Board of Public Accountancy.

History. Acts 1997, No. 272, § 1; 1999, No. 218, § 1; 2011, No. 605, § 1; 2011, No. 615, § 1; 2015, No. 400, § 1.

Publisher's Notes. Acts 1999, No. 218, § 5, provided: "The provisions of this Act are applicable for fiscal periods beginning January 1, 1999 or thereafter."

Amendments. The 2015 amendment substituted "seven hundred fifty (750)" for "five hundred (500)" in (a)(1); substituted "one thousand (1,000)" for "seven hundred fifty (750)" in (a)(2); substituted "seven hundred fifty (750)" for "five hundred (500)" in (b)(1)(A); substituted "one thousand (1,000)" for "seven hundred fifty (750)" in (b)(1)(B); and substituted "report engagement" for "engagements" in (b)(2).

14-234-120. Filing of report.

Within thirty (30) days of completion of the audit report or the agreed-upon procedures and compilation report, the accountant performing the audit or agreed-upon procedures and compilation shall submit the report to the Legislative Auditor. The report shall be submitted in an electronic media format approved by the Legislative Auditor.

History. Acts 1997, No. 272, § 2; 1999, No. 218, § 2; 2011, No. 615, § 2.

Publisher's Notes. Acts 1999, No. 218, § 5, provided: "The provisions of this Act are applicable for fiscal periods beginning January 1, 1999 or thereafter."

14-234-121. Review of audit report or report of agreed-upon procedures by board.

Each audit report or report of agreed-upon procedures shall be reviewed by the appropriate board at the next regularly scheduled open meeting after receiving the audit report or the report of agreed-upon procedures from the accountant.

History. Acts 1997, No. 272, § 3; 1999, No. 218, § 3.

Publisher's Notes. Acts 1999, No. 218, § 5, provided: "The provisions of this Act are applicable for fiscal periods beginning January 1, 1999 or thereafter."

14-234-122. Penalty provision.

Any entity not complying with §§ 14-234-119 — 14-234-121 may be subject to fines up to one thousand dollars ($1,000) by the Department of Health, the Division of Environmental Quality, or the Arkansas Natural Resources Commission and any permits or licenses obtained from these agencies are subject to cancellation or nonrenewal.

History. Acts 1997, No. 272, § 4; 1999, No. 218, § 4; 2019, No. 910, § 3037.

Publisher's Notes. Acts 1999, No. 218, § 5, provided: "The provisions of this Act are applicable for fiscal periods beginning January 1, 1999 or thereafter."

Amendments. The 2019 amendment substituted "Division of Environmental Quality" for "Arkansas Department of Environmental Quality".

Subchapter 2 — Purchase and Construction

14-234-201. Definitions.

CASE NOTES

Cited: Lois Marie Combs Revocable Trust v. City of Russellville, 2011 Ark. 186 (2011).

14-234-214. Rates — Disposition of surplus funds.

CASE NOTES

Transfer of Funds.

Genuine issue of material fact existed regarding 1996 transfer of funds from from the city's water and sewer operating fund, and from its sanitation fund, to the city's general fund, as dispute existed about whether funds making the transfer had a surplus enabling them to make such a transfer, and thus, summary judgment grant to the city on the residents' two unlawful transfer claims regarding 1996 tansfers had to be reversed. Maddox v. City of Fort Smith, 346 Ark. 209, 56 S.W.3d 375 (2001).

Circuit court properly ruled that § 14-234-214(e) (1998) was inapplicable to the citizens' complaint challenging the lawfulness of transfers of funds from the water-and-sewer operating fund and the sanitation fund to the general fund where the

term "surplus funds" referred to the disposition of rate-derived surplus funds, and the revenue transferred in this case was not rate-derived surplus, but was the city's portion of county sales tax revenue that was authorized by a county ordinance to be used for any municipal purpose. Maddox v. City of Fort Smith, 369 Ark. 143, 251 S.W.3d 281 (2007).

14-234-215. Eminent domain.

CASE NOTES

Cited: Lois Marie Combs Revocable Trust v. City of Russellville, 2011 Ark. 186 (2011).

Subchapter 3 — Waterworks Commissions

SECTION.

14-234-303. Ordinance — Qualifications of commissioners.

(a) Any city of the first class or city of the second class may enact an ordinance by a majority vote of the elected and qualified members of its city council creating a waterworks commission to be composed of no less than three (3) nor more than seven (7) citizens who are qualified electors of the municipality or who are qualified electors of the area served by the municipality.

(b) Any waterworks commission of a city of the first class or city of the second class having less than seven (7) members may have its membership increased at any time to no more than seven (7) members by ordinance of the city council passed by the majority vote of the elected and qualified members of the city council.

History. Acts 1937, No. 215, § 2; Pope's Dig., § 10019; Acts 1953, No. 413, § 1; 1957, No. 166, § 1; 1975, No. 359, § 1; 1981, No. 840, § 1; A.S.A. 1947, §§ 19-4220, 19-4220.1; Acts 1995, No. 789, § 1; 1999, No. 95, § 1; 2011, No. 525, § 1; 2013, No. 752, § 1.

14-234-304. Appointment of commissioners — Term — Salaries — Oath.

(a)(1) The commissioners shall be appointed by the mayor and confirmed by a two-thirds vote of the elected and qualified members of the city council and shall hold office for a term of eight (8) years.

(2)(A) However, commissioners first appointed and confirmed shall serve for terms of four (4), six (6), and eight (8) years for a three-member commission, for terms of two (2), four (4), six (6), seven (7), and eight (8) years for a five-member commission, and for terms of two (2), three (3), four (4), five (5), six (6), seven (7), and eight (8)

years for a seven-member commission, each to be designated by the mayor and city council.

(B) Thereafter, and upon the expiration of the commissioners' respective terms, their successors shall be appointed by the remaining commissioners subject to the approval of two-thirds (⅔) of the elected and qualified members of the city council for a term of eight (8) years.

(b)(1) If the membership of any waterworks commission of a city of the first class or city of the second class is increased under this subchapter, the members selected to fill the additional positions following the increase in membership of the waterworks commission shall be appointed as vacancies are filled under subsection (d) of this section for terms of such duration to assure that thereafter the terms of the remaining commissioners will expire in successive years with no two (2) terms expiring during any one (1) calendar year.

(2) All successor appointments to the waterworks commission shall be made in the manner and for the terms prescribed in this subchapter.

(c) The city council may fix and prescribe the salaries to be paid to the commissioners.

(d) In the event of a vacancy on the commission, the vacancy shall be filled by the remaining commissioners appointing a member, subject to the approval of two-thirds (⅔) of the elected and qualified members of the city council.

(e) The commissioners shall file the oath of public officials required by law in the State of Arkansas.

History. Acts 1937, No. 215, § 3; Pope's Dig., § 10020; A.S.A. 1947, § 19-4221; Acts 1995, No. 789, § 2; 2013, No. 752, § 2.

Subchapter 4 — Recreational Activities

SECTION.

14-234-403. Injunctions.

(a) Anything to the contrary in this subchapter notwithstanding, the State Board of Health may obtain an injunction restraining the operating authority from permitting a recreational activity if the rules and regulations adopted by the operating authority, or if the provisions of any lease granted by the operating authority do not adequately protect the water supply from pollution, or if the rules and regulations or the terms of any lease are not properly enforced by the operating authority.

(b) Any operating authority may obtain prohibitive and mandatory injunctions against any person, firm, or corporation polluting its water supply or refusing to obey lawful regulations or rules adopted by the operating authority or the State Board of Health for the protection of any municipal water supply.

History. Acts 1959, No. 204, § 11; A.S.A. 1947, § 19-4238.2; Acts 2019, No. 315, § 1015.

Amendments. The 2019 amendment inserted "or rules" following "regulations" in (b).

Subchapter 5 — Joint Systems

SECTION.
14-234-501. Definitions.

14-234-501. Definitions.

As used in this subchapter:

(1) "Mayor" means the mayor of municipalities having the mayor-council form of government and the presiding officer of municipalities having a commission or other form of government;

(2) "Municipality" means a city of the first class, a city of the second class, or an incorporated town in the State of Arkansas;

(3) "Net revenues" means the revenues of the waterworks system remaining after the payment of the reasonable costs of operation, repair, maintenance, and depreciation; and

(4) "Waterworks system" means and includes the waterworks system in its entirety or any integral part thereof, including mains, hydrants, meters, valves, standpipes, storage tanks, pumping plants, intakes, wells, impounding reservoirs, or purification plants.

History. Acts 1955, No. 414, § 1; A.S.A. 1947, § 19-4239; Acts 2017, No. 878, § 16.

Amendments. The 2017 amendment deleted "unless the context requires otherwise" from the introductory language, redesignated the definitions in alphabetical order; in (1), substituted "mayor-council" for "mayor-aldermanic"; and made stylistic changes.

Subchapter 6 — Collection of Delinquent Water Bills

SECTION.
14-234-601. Definitions.
14-234-602. Liability.
14-234-603. Refusal of water service for delinquency.
14-234-604. Applicability.
14-234-605. Termination of water service for delinquency.

Cross References. Arkansas Public Service Commission, § 23-2-101 et seq.

14-234-601. Definitions.

As used in this subchapter:

(1) "Water association" means any entity organized under the laws of the State of Arkansas, whether for profit or not for profit, that provides, distributes, transmits, treats, pumps, or stores raw or potable water for

the benefit of members of the general public or commercial, industrial, and other users; and

(2) "Water system" means any entity that provides, distributes, transmits, treats, pumps, or stores raw or potable water, wastewater, or sewage for the benefit of members of the general public and commercial, industrial, and other users, including without limitation, the following entities that perform such activities:

(A) Municipalities;
(B) Counties;
(C) Public facilities boards;
(D) Public water authorities;
(E) Central Arkansas Water;
(F) Regional water distribution districts; and
(G) Water associations.

History. Acts 2003, No. 769, § 1; 2007, No. 360, § 1.

14-234-602. Liability.

Any person who is delinquent on the payment for water, wastewater service, or sewer service provided by a water system may be held liable, at the discretion of a court of competent jurisdiction, for attorney's fees and costs incurred in the collection of the delinquency.

History. Acts 2003, No. 769, § 2; 2007, No. 360, § 2.

CASE NOTES

Late Fees.

This section and subsection (h) of § 14-235-223 do not limit the administrative power of a municipality to levy a fine or penalty against a person who has not paid his bill for water or sewer services as the exclusive remedy. Rather, these statutes give municipalities the additional authority to file suit in court and seek attorney's fees in litigation concerning the collection of those delinquent accounts. Davis v. City of Blytheville, 2015 Ark. 482, 478 S.W.3d 214 (2015).

14-234-603. Refusal of water service for delinquency.

If a person who is delinquent on the payment of an undisputed bill for water service, wastewater service, or sewer service provided by a water system within this state moves into another area of this state and that person applies for or receives water from another water system, if the person's former water system establishes that there is no dispute that the delinquent amount is properly due and owed by that particular individual in that amount, the new water system shall refuse to provide water service to the delinquent person until the person provides proof of curing the delinquency.

History. Acts 2003, No. 769, § 3; 2007, No. 360, § 3.

14-234-604. Applicability.

No provision of this subchapter shall apply to a water system that is regulated by the Arkansas Public Service Commission as a public utility as provided in § 23-1-101(9).

History. Acts 2003, No. 769, § 4.

14-234-605. Termination of water service for delinquency.

A public water system that is not otherwise regulated by a municipality or municipal improvement district may terminate water service to a water user when the water user:

(1) Is more than twenty-five (25) days past the earliest due date shown on the face of the bill in making a payment for water, wastewater, or sewer service to the public water system or other public entity; and

(2) Has been sent notice via the United States Postal Service to an address provided by the water user that service will be terminated in no less than fifteen (15) days from date of mailing if the balance due on the service and any applicable late fees are not paid.

History. Acts 2011, No. 284, § 1.

Subchapter 7 — The Sewer Utility Collection Act

A.C.R.C. Notes. Acts 2013, No. 1210, § 1, provided: "Findings and legislative intent.

"(a) The General Assembly finds that:

"(1) Arkansas is a rural state, and many citizens have sewer utility service provided by relatively small sewer utilities that do not control customers' water service but are required to meet stringent state and federal water quality standards and collect service fees from customers to properly operate the sewer utility;

"(2) Many sewer utilities are owned by private entities, neighborhood associations, or improvement districts that do not have the resources to incur collection costs when payment for sewer utility services are not made;

"(3) A sewer utility that does not control its customers' water service is prevented from discontinuing sewer utility service to a customer due to nonpayment despite the need to continue sewer utility service to avoid unsanitary conditions and potential health risks; and

"(4) A sewer utility that does not control its customers' water service needs a mechanism to collect unpaid sewer utility service fees from its customers.

"(b) It is the intent of this act to assist a sewer utility that does not control its customers' water service by providing a mechanism to collect unpaid sewer utility service fees from its customers and requiring cooperation from the provider of its customers' water service."

14-234-701. Title.

This subchapter shall be known and may be cited as the "Sewer Utility Collection Act".

History. Acts 2013, No. 1210, § 2.

14-234-702. Definitions.

As used in this subchapter:

(1) "Corresponding water utility" means an individual or entity that owns or operates in this state equipment or facilities for diverting, developing, pumping, impounding, distributing, or furnishing water to or for the public for compensation; and

(2) "Sewer utility" means an individual or entity that maintains a sewage collection system or a sewage treatment plant, intercepting sewers, outfall sewers, force mains, pumping stations, ejector stations, and other appurtenances necessary or useful for the collection or treatment, purification, and disposal of liquid and solid waste, sewage, or wastewater.

History. Acts 2013, No. 1210, § 2; 2015, No. 336, § 1.

Amendments. The 2015 amendment redesignated (1)(A) as (1) and deleted (1)(B).

14-234-703. Cooperation between sewer and water utilities — Termination of water service.

(a)(1) A sewer utility may request notification from a corresponding water utility of any change to customer information, including without limitation a change:

(A) To a billing address; and

(B) In service, including a new or additional connection or a disconnection.

(2) A corresponding water utility shall provide the customer information requested to the sewer utility within fifteen (15) days of the change in customer information.

(b)(1) A corresponding water utility shall terminate water service to a customer of the sewer utility who is also a customer of the corresponding water utility upon receiving a signed statement from a representative of the sewer utility that states:

(A) That the customer has not paid for sewer utility service for more than fifteen (15) days past the due date shown on the face of the sewer utility bill; and

(B) That the sewer utility has sent notice to the customer by the sewer utility's preferred delivery method of notification from the choices of notification that the United States Postal Service can provide.

(2) The signed statement required under this subsection shall be accompanied by a copy of the following:

(A) Documentation showing that the customer has not paid for sewer utility service for more than fifteen (15) days past the earliest due date shown on the face of the sewer utility bill;

(B) The notice required under subdivision (b)(1)(B) of this section; and

(C) Documentation showing that the sewer utility mailed the termination notice required under subdivision (b)(1)(B) of this section.

(3) The signed statement required under this subsection may be sent to a water utility electronically.

(c) Upon receipt of payment for the outstanding balance for sewer utility service, the sewer utility shall promptly notify the corresponding water utility to reconnect the customer's water service.

(d)(1) If water service is terminated under subsection (b) of this section, a corresponding water utility may charge the customer a fee to reestablish water service.

(2) A corresponding water utility shall not:

(A) Charge a sewer utility a fee for:

(i) Terminating water service under subsection (b) of this section; or

(ii) Reestablishing water service under subdivision (d)(1) of this section; or

(B) Have any liability for complying in good faith with a requirement of this section.

History. Acts 2013, No. 1210, § 2; 2015, No. 336, § 2; 2017, No. 1120, § 1.

A.C.R.C. Notes. Former subdivision (b)(2)(D) was removed as obsolete language as a result of the repeal of former subdivision (b)(1)(C).

Amendments. The 2015 amendment rewrote and redesignated the introductory language of (b) as the introductory language of (b)(1); rewrote and redesignated (b)(1) and (b)(2) as (b)(1)(A) and (b)(1)(B); added (b)(1)(C); and added (b)(2) and (b)(3).

The 2017 amendment deleted "the following" at the end of the introductory language of (b)(1); in (b)(1)(A), substituted "That the" for "The" and deleted "earliest" preceding "due date"; rewrote (b)(1)(B); and deleted (b)(1)(C).

14-234-704. Cooperative billing arrangements.

(a) A corresponding water utility may enter into a written agreement with a sewer utility or other entity, including without limitation an entity responsible for trash collection, for the regular billing and collection of the bills of the sewer utility or other entity by the corresponding water utility on behalf of the sewer utility or other entity for a fee to be paid by the sewer utility or other entity.

(b) When a corresponding water utility is responsible for the regular billing and collection of bills for a sewer utility or other entity based on a written agreement under subsection (a) of this section:

(1) The requirements of § 14-234-703 do not apply; and

(2) The corresponding water utility may terminate water service to a customer for the customer's failure to pay any portion of the collective

bill sent by the corresponding water utility on behalf of itself and any sewer utility or other entity under this section.

History. Acts 2015, No. 336, § 3.

CHAPTER 235

MUNICIPAL SEWAGE SYSTEMS

SUBCHAPTER.

2. Operation of Systems by Municipalities.
3. Sewer Connections by Property Owners.

Subchapter 2 — Operation of Systems by Municipalities

SECTION.

14-235-201. Definition.

As used in this subchapter, unless the context otherwise requires, the term "works" shall be construed to mean and include:

(1) The structures and property as provided in § 14-235-203;

(2) Storm water management;

(3) The creation and operation of a storm water utility;

(4) The creation and operation of a storm water department; and

(5) Other like organizational structures related to the disposal or treatment of storm water by municipalities.

History. Acts 1933, No. 132, § 1; Pope's Dig., § 9977; A.S.A. 1947, § 19-4101; Acts 2001, No. 986, § 1.

CASE NOTES

Sewerage System.

Stormwater utility fee was not an illegal extraction because § 14-235-223(a)(1) did not state that the fee had to be paid by any beneficiary, whether intended or unintended, of the sewerage system, and the code did not define "sewerage system" to distinguish between the wastewater sewer system and the stormwater sewer system. Morningstar v. Bush, 2011 Ark. 350, 383 S.W.3d 840 (2011).

14-235-202. Construction.

CASE NOTES

Late Fees.

When subdivision (a)(1) of § 14-235-223 is construed liberally, as this section instructs, cities have the implied authority to establish a late fee as a "rate or charge" under § 14-235-223. Davis v. City of Bly-

theville, 2015 Ark. 482, 478 S.W.3d 214 (2015).

14-235-203. Authority generally.

CASE NOTES

Analysis

In General.
Illegal Exaction.

In General.

The effective date of Acts 1997, No. 1336, was August 1, 1997, and the act is not to be applied retroactively; thus, the act does not apply to a facility on which construction was commenced prior to August 1, 1997. City of Dover v. Barton, 337 Ark. 186, 987 S.W.2d 705 (1999).

Illegal Exaction.

Stormwater utility fee was not an illegal exaction because § 14-235-223(a)(1) did not state that the fee had to be paid by any beneficiary, whether intended or unintended, of the sewerage system, and the code did not define "sewerage system" to distinguish between the wastewater sewer system and the stormwater sewer system. Morningstar v. Bush, 2011 Ark. 350, 383 S.W.3d 840 (2011).

Cited: Davis v. City of Blytheville, 2015 Ark. 482, 478 S.W.3d 214 (2015).

14-235-207. Powers and duties of sewer committee.

(a)(1)(A) The sewer committee shall have power to take all steps and proceedings and to make and enter into all contracts or agreements necessary or incidental to the performance of its duties and the execution of its powers under this subchapter.

(B) Any contract relating to the financing of the acquisition or construction of any works or any trust indenture as provided in § 14-235-219 shall be approved by the municipal council before it shall be effective.

(2) The committee may employ engineers, architects, inspectors, superintendents, managers, collectors, attorneys, and such other employees as, in its judgment, may be necessary in the execution of its powers and duties and may fix their compensation, all of whom shall do such work as the committee shall direct.

(3) All compensation and all expenses and liabilities incurred in carrying out the provisions of this subchapter shall be paid solely from funds provided under the authority of this subchapter, and the committee shall not exercise or carry out any authority or power given it in this subchapter so as to bind the committee or the municipality beyond the extent to which money has been or may be provided under the authority of this subchapter.

(4)(A) No contract or agreement with any contractor for labor or material exceeding the sum of twenty thousand dollars ($20,000) shall be made without advertising for bids.

(B) The bids shall be publicly opened and the award made to the best bidder, with power in the committee to reject any or all bids.

(b) After the construction, installation, and completion of the works or the acquisition of them, the committee shall:

(1) Operate, manage, and control them and may order and complete any extensions, betterments, and improvements of and to the works

that it may deem expedient if funds for them are available, or are made available, as provided in this subchapter;

(2) Establish rules and regulations for the use and operation of the works and of other sewers and drains connected with them so far as they may affect the operation of the works; and

(3) Do all things necessary or expedient for the successful operation of the works.

(c) All public ways or public works damaged or destroyed by the committee in carrying out its authority under this subchapter shall be restored or repaired by the committee and placed in their original condition, as nearly as practicable, if requested to do so by proper authority, out of funds provided by this subchapter.

History. Acts 1933, No. 132, § 3; Pope's Dig., § 9979; Acts 1979, No. 575, § 1; A.S.A. 1947, § 19-4103; Acts 2005, No. 1435, § 1.

14-235-212. Contracting with other political subdivisions.

(a)(1)(A) Any municipality operating a sewage collection system or sewage disposal works as defined in this subchapter or which, as provided in this subchapter, has ordered the construction or acquisition of such works, in this section called the "owner", is authorized to contract with one (1) or more other cities, towns, or political subdivisions within the state, in this section called the "lessee".

(B) The lessees are authorized to enter into contracts with the owners, for the service of such works to the lessees and their inhabitants, but only to the extent of the capacity of the works without impairing the usefulness of them to the owners, upon such terms and conditions as may be fixed by the sewer committee or sanitary board and approved by ordinance of the respective contracting parties.

(2) No such contract shall be made for a period of more than thirty (30) years, in violation of an ordinance authorizing bonds under this subchapter, or in violation of the trust indenture.

(b)(1) The lessee shall, by ordinance, have power to establish, change, and adjust, so far as will not impair the rights of bondholders, rates and charges for the service rendered by the works against the owners of the premises served, in the manner provided in § 14-235-223 for establishing, changing, and adjusting rates and charges for the service rendered in the municipality where the works are owned and operated, and the rates or charges shall be collectible and shall be a lien as provided in § 14-235-223 for rates and charges made by the owner.

(2) The necessary intercepting sewers and appurtenant works for connecting the works of the owner with the sewerage system of the lessee shall be constructed by the owner or the lessee upon such terms and conditions as may be set forth in the contract, and the cost, or that part of the cost of them which is to be borne by the owner, may be paid as a part of the cost of the works from the proceeds of bonds issued under this subchapter unless otherwise provided by the ordinance or trust indenture prior to the issuance of the bonds.

(3) The income received by the owner under any such contract, if so provided in the ordinance or trust indenture, shall be deemed to be a part of the revenues of the works as defined in this subchapter and shall be applied as provided in this subchapter for the application of such revenues.

History. Acts 1933, No. 132, § 16; Pope's Dig., § 9992; A.S.A. 1947, § 19-4116; Acts 2013, No. 992, § 1.

14-235-223. Rates and charges for services — Lien.

CASE NOTES

Analysis

Illegal Extraction.
Late Fees.

Illegal Extraction.

Stormwater utility fee was not an illegal extraction because subdivision (a)(1) of this section did not state that the fee had to be paid by any beneficiary, whether intended or unintended, of the sewerage system, and the code did not define "sewerage system" to distinguish between the wastewater sewer system and the stormwater sewer system. Morningstar v. Bush, 2011 Ark. 350, 383 S.W.3d 840 (2011).

Late Fees.

When subdivision (a)(1) of this section is construed liberally, as § 14-235-202 instructs, cities have the implied authority to establish a late fee as a "rate or charge" under this section. Davis v. City of Blytheville, 2015 Ark. 482, 478 S.W.3d 214 (2015).

Summary judgment was properly granted to a city because a water department's charging of late fees on overdue accounts pursuant to ordinances was not an ultra vires act; there was implied authority to establish a late fee as a rate or charge. Davis v. City of Blytheville, 2015 Ark. 482, 478 S.W.3d 214 (2015).

Subsection (h) of this section and § 14-234-602 do not limit the administrative power of a municipality to levy a fine or penalty against a person who has not paid his bill for water or sewer services as the exclusive remedy. Rather, these statutes give municipalities the additional authority to file suit in court and seek attorney's fees in litigation concerning the collection of those delinquent accounts. Davis v. City of Blytheville, 2015 Ark. 482, 478 S.W.3d 214 (2015).

Late fees charged by city water department on overdue accounts were not usurious, unreasonable, or an unconscionable penalty, and the statutory limits on penalties for violations of ordinances, set out in § 14-55-504, were not exceeded. Davis v. City of Blytheville, 2015 Ark. 482, 478 S.W.3d 214 (2015).

14-235-226. Public improvements — Award procedure — Definitions.

(a) As used in this section:

(1) "Design-build" means a project delivery method in which the municipal sewage system acquires both design and construction services in the same contract from a single legal entity, referred to as the "design-builder", through a two-step procurement process in which the:

(A) First step is based on qualifications; and

(B) Second step is based on best value to the municipal sewage system as defined by:

(i) Lowest capital cost;

(ii) Lowest life-cycle cost; or

(iii) A combination of lowest capital cost and lowest life-cycle cost;

(2) "Design-builder" means an individual, partnership, joint venture, corporation, or other legal entity licensed in this state that furnishes the necessary design services and construction itself or through subcontracts; and

(3)(A) "General contractor construction management" means a project delivery method acquired through a qualifications-based selection process in which the municipal sewage system acquires from a construction entity a series of preconstruction phase services, including without limitation design review, scheduling, cost control, value engineering, constructability and biddability evaluation, and preparation and coordination of bid packages.

(B)(i) After the completion of the preconstruction phase services, the construction entity serves as the general contractor.

(ii) The general contractor under subdivision (a)(3)(B)(i) of this section shall hold all trade contracts and purchase orders and shall bond and guarantee the project after providing a maximum guaranteed price, unless the general contractor and municipal sewage system are unable to mutually agree on a maximum guaranteed price for the project construction, which shall require the project construction to be competitively bid as provided by law.

(b)(1) In addition to other applicable law on a municipal sewage system's procurement authority, a municipal sewage system created and operating under this subchapter that employs or contracts with a licensed professional engineer to assist in project-scope development and to oversee construction observation for the benefit of the owner may use design-build construction for projects that exceed two million dollars ($2,000,000).

(2) In addition to other applicable law on a municipal sewage system's procurement authority, a municipal sewage system created and operating under this subchapter may use general contractor construction management as a project delivery method for projects of any amount for building, altering, repairing, improving, maintaining, or demolishing any structure associated with the municipal sewage system.

(3) The design-builder shall contract directly with subcontractors and shall be responsible for the bonding of the project.

(4) A project using design-build construction or general contractor construction management shall comply with state and federal law.

History. Acts 2017, No. 627, § 1.

Subchapter 3 — Sewer Connections by Property Owners

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

14-235-301. Penalties.

(a)(1) It is declared a misdemeanor for any person to:

(A) Injure, damage, or destroy any public sewer; or

(B) Fail or refuse to connect with or tap the sewers of a municipality within the time prescribed by an ordinance of the municipality.

(2)(A) Any person so offending shall be punished on conviction by fine or imprisonment, or both, at the discretion of the court, in any sum not more than five hundred dollars ($500) and for a period not longer than six (6) months.

(B)(i) An offender shall also be liable for all damages which shall be found by the jury.

(ii) The sum so found, judgment shall be rendered in favor of the municipality, and execution shall issue on it as on other judgments at law.

(b)(1) A city council shall have power by ordinance to compel all sewers built by private parties to be kept clean and in repair, by fine and punishment of the party in possession as owner or lessee of the property where the sewer is situated.

(2) The fine shall not exceed fifty dollars ($50.00) for any one (1) neglect, nor shall the imprisonment be more than ninety (90) days.

History. Acts 1881, No. 84, § 18, p. 161; 1907, No. 346, § 1, p. 834; C. & M. Dig., §§ 7542, 7543; Pope's Dig., §§ 9617, 9618; A.S.A. 1947, §§ 19-4129, 19-4130; Acts 2005, No. 279, § 1.

14-235-302. Ordering property owners to connect.

(a) After the completion of any sewer or branch sewer authorized to be built under the provisions of this act, it shall be lawful for any municipality to which this act is applicable, whenever in its opinion the public health will be promoted by it, to order any one (1) or more property owners near or adjacent to any sewer to construct upon their property sewers leading from some point or place on their premises to the sewer of the municipality for the purpose of:

(1) Draining off surface or other water; and

(2) Conducting any excrement that may be at or about the premises and filth of every nature, character, and description into the sewers belonging to the municipality.

(b) In the order issued to construct the sewers for the purpose presented, the time within which they are to be completed, the nature and character of the material to be used in the construction of them, and the place of tapping the sewers of the municipality shall be designated, as well as the manner of doing it.

History. Acts 1881, No. 84, § 18, p. 161; C. & M. Dig., § 7537; Pope's Dig., § 9612; A.S.A. 1947, § 19-4125; Acts 2005, No. 279, § 2.

14-235-303. Refusal of owner to connect.

(a)(1) If the owner of property shall fail, neglect, or refuse to connect the sewer as ordered in § 14-235-302 within the time prescribed in the order, unless further time is granted for the completion of the sewer, it shall be the duty of the municipality to cause the sewer to be constructed, by contract or otherwise, in as economic and substantial a manner as may be practicable.

(2) For that purpose, the municipality is authorized to enter upon, by its agents, contractors, and employees, any property on which they may order a sewer to be constructed, doing as little damage as possible.

(b)(1) When the construction has been completed and the cost ascertained, it shall become a charge and a lien upon the property.

(2)(A) The municipality is authorized and empowered to institute suit in any court having jurisdiction to enforce liens against real property, in the manner designated in § 14-90-1002 for the commencement of suits by the board of improvement, for the purpose of making the property chargeable for the lien provided in this section and the amount of the construction of the sewer, together with a twenty percent (20%) penalty for noncompliance with the order of the municipality.

(B)(i) When a decree has been obtained, the property shall be ordered sold in the manner provided in § 14-90-1101 et seq. and § 14-90-1201 et seq. for the sale of property.

(ii) All appeals to the Supreme Court or the Court of Appeals from decrees rendered against property under this section shall be prosecuted within the time and under the restrictions and limitations set forth in this act, and no injunction shall be issued by any court restraining the building of any sewer ordered by the municipality.

(c)(1) All notices and summons required in this section shall be served in the manner provided in § 14-90-1003 against resident as well as nonresident owners of property.

(2)(A) The court shall be open, as stated in § 14-90-1001.

(B) The same preference shall be given to suits commenced under this section.

(C) The same summary mode of proceeding shall be adopted in pleading and in all matters relating to the enforcement of the lien.

History. Acts 1881, No. 84, § 18, p. 161; C. & M. Dig., §§ 7538, 7539; Pope's Dig., §§ 9613, 9614; A.S.A. 1947, § 19-4126; Acts 2005, No. 279, § 3.

14-235-304. Restrictions on connections.

This act does not authorize a municipal board of health to order or compel the building of a sewer by one (1) property owner:

(1) Over the property of another; or

(2)(A) For a distance greater than three hundred feet (300') from the point where the sewer exits a building on the property owner's property through or into any street or alley to a place where a connection can be made with a sewer.

(B) A municipal board of health may order or compel the building of a sewer by a property owner under subdivision (2)(A) of this section only if the existing sewer on the property owner's property is the subject of an enforcement action by the Division of Environmental Quality or a prosecuting attorney.

History. Acts 1881, No. 84, § 18, p. 161; C. & M. Dig., § 7540; Pope's Dig., § 9615; A.S.A. 1947, § 19-4127; Acts 2013, No. 1470, § 1; 2019, No. 910, § 3038.

Amendments. The 2019 amendment substituted "Division of Environmental Quality" for "Arkansas Department of Environmental Quality" in (2)(B).

CHAPTER 236

ARKANSAS SEWAGE DISPOSAL SYSTEMS ACT

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the

fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

14-236-103. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Community sewage system" means any system, whether publicly or privately owned, serving two (2) or more individual lots, for the collection and disposal of sewage or industrial wastes of a liquid nature, including various devices for the treatment of the sewage or industrial wastes;

(2) "Department" means the Division of Environmental Health Protection of the Department of Health;

(3) "Homeowner" means a person who owns and occupies a building as his or her home;

(4) "Industrial wastes" means liquid wastes resulting from the processes employed in industrial and commercial establishments;

(5) "Individual sewage disposal system" means a single system of treatment tanks, disposal facilities, or both, used for the treatment of domestic sewage, exclusive of industrial wastes, serving only a single dwelling, office building, or industrial plant or institution;

(6) "Installer" means any person, firm, corporation, association, municipality, or governmental agency who for compensation constructs, installs, alters, or repairs individual sewage disposal systems for others;

(7) "Municipality" means a city, town, county, district, or other public body created by or pursuant to state law, or any combination thereof acting cooperatively or jointly;

(8) "Person" means any institution, public or private corporation, individual, partnership, or other entity;

(9) "Potable water" means water free from impurities in an amount sufficient to cause disease or harmful physiological effects, with the bacteriological and chemical quality conforming to applicable standards of the State Board of Health;

(10) "Property owners association" means an association created by and pursuant to state law and organized for the purpose of maintaining common facilities, including sewage disposal facilities in unincorporated subdivisions;

(11) "Domestic sewage" means all wastes discharging from sanitary conveniences and plumbing fixtures of a domestic nature, exclusive of industrial and commercial wastes;

(12) "Subdivision" means land divided or proposed to be divided for predominantly residential purposes into such parcels as required by local ordinances or, in the absence of local ordinances, the term "subdivision" means any land which is divided or proposed to be divided by a common owner or owners for predominantly residential purposes

into three (3) or more lots or parcels, any of which contain less than three (3) acres, or into platted or unplatted units any of which contain less than three (3) acres, as a part of a uniform plan of development;

(13) "Authorized agent" means the sanitarian assigned to the county or local area by the Division of Environmental Health Protection of the Department of Health;

(14) "Designated representative" means a person designated by the authorized agent to make percolation tests, system designs, and inspections subject to the authorized agent's final approval. Designated representatives shall be registered professional engineers, registered land surveyors, licensed master plumbers, registered sanitarians, or other similarly qualified individuals holding current certificates from the State of Arkansas, and shall demonstrate to the satisfaction of the authorized agent prior to their designation as a designated representative their competency to make percolation tests, designs, and final inspections for individual sewage disposal systems in accordance with the rules and regulations promulgated pursuant to this chapter;

(15) "Alternate and experimental system" means a nonstandard individual sewage disposal system or treatment system which is classified as experimental in order to evaluate its potential effectiveness;

(16) "Septic tank manufacturer" means a person, firm, corporation, or association who manufactures septic tanks, package treatment plants, or other components for individual sewage disposal or treatment systems; and

(17) "Certified maintenance person" means an individual registered by the Department of Health to conduct assessments under this chapter.

History. Acts 1977, No. 402, § 3; A.S.A. 1947, § 19-5403; Acts 1987, No. 435, § 1; 2007, No. 939, § 1.

14-236-104. Certain individual systems excepted from chapter.

(a)(1) No individual sewage disposal system in existence on July 1, 1977, nor any individual sewage disposal system installed after July 1, 1977, in a subdivision, wherein individual lots have been developed or sold for use with individual sewage disposal systems, for which a plat has been filed of record prior to July 1, 1977, shall be required to conform to more stringent specifications and requirements as to design, construction, density of improvements, lot size, and installation than those standards contained in any applicable, duly adopted, and published regulation in effect at the time of the platting of record of the subdivision.

(2) No individual sewage disposal system to be installed on a residential lot for which the Division of Environmental Health Protection of the Department of Health or its authorized agent has issued a construction permit on or before July 1, 1977, shall be required to

conform to the design, construction, and installation provisions of this chapter, or any rules and regulations adopted pursuant thereto.

(3) In a subdivision for which a master plan has been approved by the Department of Health, the Arkansas Department of Environmental Quality, or the Division of Environmental Quality prior to July 1, 1977, or for which the Department of Health, the Arkansas Department of Environmental Quality, or the Division of Environmental Quality has otherwise previously issued its written approval for the installation of individual sewage disposal systems and where individual lots have been developed or sold in reliance upon the prior written approval, individual sewage disposal systems shall not be required to conform to more stringent specifications as to design, construction, and installation than those standards in effect at the time of or referred to in the prior written approval.

(b) However, any individual sewage disposal system which is determined by the Division of Environmental Health Protection of the Department of Health to be a health hazard or which constitutes a nuisance due to odor or unsightly appearance must conform with the provisions of this chapter and applicable rules and regulations within a reasonable time after notification that the determination has been made.

(c) The requirements of this chapter shall not apply to any individual sewage disposal system or alternate and experimental system which is situated on a tract of land ten (10) acres or larger, in which the field line or sewage disposal line is no closer than two hundred feet (200') to the property line.

History. Acts 1977, No. 402, §§ 7, 9; 1981, No. 484, § 1; A.S.A. 1947, §§ 19-5407, 19-5409; Acts 1987, No. 435, § 2; 1999, No. 1164, § 127; 2019, No. 910, § 3039.

Amendments. The 2019 amendment inserted "or the Division of Environmental Quality" twice in (a)(3).

14-236-105. Interpretation with other laws.

The provisions of any law or regulation of any municipality establishing standards affording greater protection to the public health or safety shall prevail within the jurisdiction of the municipality over the provisions of this chapter and rules adopted hereunder.

History. Acts 1977, No. 402, § 13; A.S.A. 1947, § 19-5413; Acts 2019, No. 315, § 1016.

Amendments. The 2019 amendment substituted "rules" for "regulations".

14-236-106. Penalties.

(a)(1) A person who shall willingly and knowingly violate the provisions of this chapter shall be liable to the party aggrieved or damaged by that violation for the cost of suit, including a reasonable attorney's fee, actual damages, and additional punitive damages equal to twenty-five percent (25%) of the damages proven by the aggrieved party, to be

taxed by the court where the suit is heard on an original action, by appeal, or otherwise, and recovered by a suit at law in any court of competent jurisdiction. However, the party aggrieved or damaged thereby must give twenty (20) days' written notice of any violation of this chapter to the violator.

(2) Approval by the Division of Environmental Health Protection of the Department of Health or its authorized agent of a requested variation from the rules adopted pursuant to this chapter shall not be construed as a violation of this chapter.

(b) The Division of Environmental Health Protection of the Department of Health or its authorized agent is authorized to require the property owner to take the necessary action to correct the malfunctioning individual sewage disposal system within thirty (30) working days of being notified. Failure to take corrective action shall constitute a violation of this chapter.

(c)(1) Any person, firm, corporation, or association who violates any of the provisions of this chapter or any rules promulgated under the authority of this chapter shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(2)(A) Every firm, person, or corporation who violates any of the provisions of this chapter or rules or orders issued or promulgated by the State Board of Health or who violates any condition of a license, permit, certificate, or any other type of registration issued by the board may be assessed a civil penalty by the board.

(B)(i) The penalty shall not exceed one thousand dollars ($1,000) for each violation.

(ii) Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessments.

(3) All fines collected under subdivision (c)(1) of this section shall be deposited into the State Treasury and credited to the Public Health Fund to be used to defray costs of administering this chapter.

(4) Subject to such rules as may be implemented by the Chief Fiscal Officer of the State, the disbursing officer for the Department of Health is authorized to transfer all unexpended funds relative to fines collected under this section, as certified by the Chief Fiscal Officer of the State, to be carried forward and made available for expenditures for the same purpose for any following fiscal year.

History. Acts 1977, No. 402, § 10; A.S.A. 1947, § 19-5410; Acts 1987, No. 435, § 3; 1991, No. 873, § 1; 1993, No. 182, § 1; 1995, No. 786, § 1; 2019, No. 315, §§ 1017-1020.

Amendments. The 2019 amendment deleted "and regulations" following "rules" in (a)(2), (c)(1), (c)(2)(A), and (c)(4).

14-236-107. Division of Environmental Health Protection — Powers and duties.

(a) The Division of Environmental Health Protection of the Department of Health or its authorized agents shall have general supervision and authority over the location, design, construction, installation, and operation of individual sewage disposal systems, and shall be responsible for the administration of this chapter and of the rules adopted pursuant to this chapter.

(b) In order to assure the effective and efficient administration of the provisions and purposes of this chapter, the Division of Environmental Health Protection of the Department of Health is authorized to:

(1) After review by the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor or appropriate subcommittees thereof adopt, and from time to time amend, rules governing the review and approval of subdivisions proposing to utilize individual sewage disposal systems as the means of sewage disposal for part or all of the lots in the subdivision and the location, design, construction, installation, and operation of individual sewage disposal systems proposed for or located in subdivisions or in platted or unplatted lots or tracts of land pursuant to the procedures provided in the Arkansas Administrative Procedure Act, § 25-15-201 et seq., in order that the wastes from the systems will not pollute any potable water supply, or source of water used for public or domestic supply purposes, or for recreational purposes, or other waters of this state, and will not give rise to a public health hazard by being accessible to insects, rodents, or other possible carriers which may come into contact with food or potable water, or by being accessible to human beings, and will not constitute a nuisance due to odor or unsightly appearance;

(2) Include a provision in all rules adopted or amended under this chapter to encourage studies and alternate submissions by engineers, sanitarians, institutions, agencies, and other persons of economically feasible alternate systems for underground and above ground individual sewage disposal systems for use in soils not suitable for normal underground sewage disposal;

(3) Include in rules adopted pursuant to this chapter, definitions and detailed descriptions of good management practices and procedures which, when utilized in the construction of septic systems, will:

(A) Justify variation in field size or in other standard requirements;

(B) Promote the use of good management practices or procedures in the construction of septic systems by adopting under the rules promulgated under this chapter standard permissible reductions in field size which may be applied when the management practices or procedures are utilized in the construction of a septic system; and

(C) Require the utilization of one (1) or more specific management practices or procedures as a condition of approval of standard septic

systems where, in the opinion of the authorized agent, unusual site conditions or problems require the additional management practices or procedures to ensure the proper operation of an otherwise standard septic system;

(4) Enforce the provisions of this chapter and any rules adopted pursuant thereto;

(5) Delegate, at its discretion, to any municipality or, in the case of an unincorporated subdivision, the property owners association, any of its authority under this chapter in the administration of the rules adopted pursuant to this chapter; and

(6) Issue permits, and other documents, including the establishment and collection of permit fees and of procedures and forms for the submission, review, approval, and rejection of application for permits required under this chapter.

History. Acts 1977, No. 402, § 5; A.S.A. 1947, § 19-5405; Acts 1997, No. 179, § 9; 2019, No. 315, §§ 1021, 1022.

Amendments. The 2019 amendment deleted "and regulations" following "rules" in (a) and throughout (b).

14-236-109. Property owners' associations — Powers and duties.

Property owners' associations that construct and maintain or have constructed and maintained sewage disposal facilities in accordance with the standards and rules established by the Division of Environmental Health Protection of the Department of Health or the Division of Environmental Quality of the Department of Energy and Environment shall have jurisdiction over the disposal of sewage within and for the subdivided area over which their authority extends and shall have general supervision and authority over the location, design, construction, installation, and operation of individual and community sewage disposal systems to the extent that the general supervision and authority is consistent with this chapter and the rules promulgated thereunder.

History. Acts 1977, No. 402, § 6; A.S.A. 1947, § 19-5406; Acts 1999, No. 1164, § 128; 2019, No. 315, § 1023; 2019, No. 910, § 3040.

Amendments. The 2019 amendment by No. 315 substituted "rules" for "regulations" preceding "established" and deleted "and regulations" preceding "promulgated".

The 2019 amendment by No. 910 substituted "Division of Environmental Quality" for "Arkansas Department of Environmental Quality".

14-236-110. Construction, alteration, repair prohibited.

No person shall construct, alter, repair, or extend or cause to be constructed, altered, repaired, or extended any individual sewage disposal system contrary to the provisions of this chapter and other applicable rules.

History. Acts 1977, No. 402, § 4; A.S.A. 1947, § 19-5404; Acts 2019, No. 315, § 1024.

Amendments. The 2019 amendment deleted "and regulations" following "rules".

14-236-111. Review of proposals and inspections.

(a)(1) The Division of Environmental Health Protection of the Department of Health or its authorized agent is authorized and directed to review proposals for individual sewage disposal systems and to make inspections of individual sewage disposal systems as may be necessary to determine substantial compliance with this chapter and rules adopted hereunder. The systems shall not be used unless a permit for operation has been approved by the division or its authorized agent.

(2) In the event that an authorized agent has not been designated for a county or municipality or locality, applications for individual sewage disposal systems shall be made to the division.

(3) The division or its authorized agent shall either approve or disapprove the individual sewage disposal system design, and, if disapproved, the system shall not be installed until all deficiencies are corrected and the design approved by the division or its authorized agent.

(b) It shall be the duty of the installer to notify the division, its authorized agent, or his or her designated representative when the installation is to occur and it shall be the duty of the owner or occupant of the property to give the division, its authorized agent, or his or her designated representative free access to the property at reasonable times for the purpose of making such inspections as are necessary.

(c) Within five (5) working days, the installer shall certify to the division that the system has been installed pursuant to the approved permit.

(d) Any person aggrieved by the disapproval of an individual sewage disposal system shall be afforded review as provided in the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

History. Acts 1977, No. 402, § 8; A.S.A. 1947, § 19-5408; Acts 2007, No. 939, § 5; 2019, No. 315, § 1025.

Amendments. The 2019 amendment substituted "rules" for "regulations" in the first sentence of (a)(1).

14-236-113. Applications for permits, etc. — Refusal.

(a) All applications for permits, licenses, or review certificates shall be made on a form which includes such information as may be required by the Division of Environmental Health Protection of the Department of Health or its authorized agent to establish compliance with the provisions of this chapter, and any rules adopted hereunder.

(b) Except as provided in § 14-236-104(a) and (b), a permit for the construction, alteration, repair, extension, or operation of an individual sewage disposal system or alternate and experimental system shall be refused where community sewerage systems are reasonably available or economically feasible, or in instances where the issuance of such

permit is in conflict with other applicable laws, rules, and regulations, or where the issuance of the permit is in conflict with the public policy declared by this chapter.

History. Acts 1977, No. 402, § 9; A.S.A. 1947, § 19-5409; Acts 1987, No. 435, § 2; 2019, No. 315, § 1026.

Amendments. The 2019 amendment substituted "rules" for "regulations" in (a); and inserted "rules" in (b).

14-236-115. Registration of installers.

(a) Each installer who operates within the State of Arkansas, regardless of the location of his home office, must become registered by the Division of Environmental Health Protection of the Department of Health.

(b) The registration will be issued by the Division of Environmental Health Protection of the Department of Health or its authorized agent upon application on proper forms and compliance with the provisions of this chapter and rules adopted pursuant to this chapter.

(c) The registration shall be renewable on January 1 of each year.

(d) The installer's registration may be revoked without advance notice whenever any provision of this chapter is violated. The installer may appeal the revocation as provided for in the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(e) Each installer must furnish proof of current registration upon request by an authorized representative of the Division of Environmental Health Protection of the Department of Health.

(f) Failure of an installer to register with the Division of Environmental Health Protection of the Department of Health as an installer in the State of Arkansas shall subject the installer to the penalties of § 14-236-106(c).

History. Acts 1977, No. 402, § 11; 1983, No. 708, § 5; A.S.A. 1947, § 19-5411; Acts 2019, No. 315, § 1027.

Amendments. The 2019 amendment substituted "rules" for "regulations" in (b).

14-236-116. Permits and registration fees — Annual training course — Transferability — Renewal.

(a)(1) A fee shall be levied for the review of individual sewage disposal permit applications as follows:

(A) For structures one thousand five hundred square feet (1,500 sq. ft.) or less, the fee to review a permit application is thirty dollars ($30.00);

(B) For structures more than one thousand five hundred square feet (1,500 sq. ft.) and less than two thousand square feet (2,000 sq. ft.), the fee to review a permit application is forty-five dollars ($45.00);

(C) For structures more than two thousand square feet (2,000 sq. ft.) and less than three thousand square feet (3,000 sq. ft.), the fee to review a permit application is ninety dollars ($90.00);

(D) For structures more than three thousand square feet (3,000 sq. ft.) and less than four thousand square feet (4,000 sq. ft.), the fee to review a permit application is one hundred twenty dollars ($120);

(E) For structures four thousand square feet (4,000 sq. ft.) and greater, the fee to review a permit application is one hundred fifty dollars ($150); and

(F) For the alteration, repair, or extension of any individual sewage disposal system, the fee to review a permit application is thirty dollars ($30.00).

(2)(A) In calculating the square footage of a residential structure for purposes of determining the applicable fee under this section, the square footage of all auxiliary areas of the residential structure shall not be considered.

(B) Auxiliary areas include garages, carports, porches, and other similar areas as determined by the Division of Environmental Health Protection of the Department of Health.

(b) An installer shall receive at least one (1) annual training course from an online, private, or governmental source approved by the Department of Health and pay a fee of one hundred dollars ($100) annually to maintain certification.

(c) A fee of one hundred dollars ($100) shall be levied annually for the registration of septic tank manufacturers.

(d) A designated representative must attend at least one (1) annual training course provided by the Department of Health and pay a one hundred dollar ($100) fee annually to maintain certification.

(e) A certified maintenance person must attend at least one (1) annual training course approved by the Department of Health and pay a fifty-dollar fee annually to maintain certification.

(f) The fee for the issuance of a review certificate under the provisions of this chapter to the person developing a subdivision shall be a minimum of one hundred dollars ($100) for one (1) lot and twenty-five dollars ($25.00) for each following lot, with a maximum of one thousand five hundred dollars ($1,500).

(g) Permit and regulation fees collected under this chapter shall be deposited into the State Treasury as follows:

(1) Five dollars ($5.00) of each permit fee collected for permits issued under subsection (a) of this section shall be credited to a special fund to be known as the "Individual Sewage Disposal Systems Improvement Fund" that is established on the books of the Treasurer of State, with such moneys to be used by the Division of Environmental Health Protection of the Department of Health, and in the manner recommended by the Individual Sewage Disposal Systems Advisory Committee, for the implementation of the utilization and application of alternate and experimental individual sewage disposal systems, as set forth in this chapter;

(2) The remainder of the fees collected for permits issued under the provisions of subsection (a) of this section and all of the net fees collected under the provisions of subsections (b)-(f) of this section shall

be credited to the Public Health Fund, and the moneys shall be used only for the operation of the Onsite Wastewater Program of the Division of Environmental Health Protection of the Department of Health; and

(3) Subject to such rules as may be implemented by the Chief Fiscal Officer of the State, the disbursing officer for the Department of Health is hereby authorized to transfer all unexpended funds relative to the funds outlined in subdivision (g)(2) of this section that pertain to fees collected, as certified by the Chief Fiscal Officer of the State, to be carried forward and made available for expenditures for the same purpose for any following fiscal year.

(h)(1) Permits issued under subsections (b)-(d) of this section shall be nontransferable and shall be renewed annually.

(2) A late fee equal to one-half (½) of the renewal fee for any type of registration or certification shall be charged to renew a permit sixty (60) days after the annual expiration date.

History. Acts 1977, No. 402, § 9; 1983, No. 708, §§ 3, 4; A.S.A. 1947, § 19-5409; Acts 1987, No. 435, § 2; 1991, No. 873, § 2; 2005, No. 1864, § 1; 2005, No. 1928, §§ 1, 2; 2007, No. 939, § 2; 2019, No. 315, § 1028.

Amendments. The 2019 amendment deleted "and regulations" following "rules" in (g)(3).

14-236-119. Registration of a certified maintenance person.

(a) Each certified maintenance person who operates within the State of Arkansas shall be registered by the Division of Environmental Health Protection of the Department of Health.

(b) The registration shall be issued by the division or its authorized agent upon compliance with this chapter and rules adopted under this chapter.

(c) The registration shall be renewed on January 1 of each year.

(d)(1) If a violation of this chapter occurs, a certified maintenance person's registration may be revoked without notice by the division.

(2) The certified maintenance person may appeal the revocation of the registration under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

(e) Upon request by an authorized representative of the division, a certified maintenance person shall provide proof of registration.

(f) A certified maintenance person is subject to the penalties under § 14-236-106 for a violation of this chapter.

History. Acts 2007, No. 939, § 4; 2019, No. 315, § 1029.

Publisher's Notes. Former § 14-236-119, concerning bond, was repealed by Acts 2007, No. 939, § 3. The section was derived from Acts 2003, No. 1170, § 1; 2005, No. 1864, § 2.

Amendments. The 2019 amendment deleted "and regulations" following "rules" in (b).

CHAPTER 237

ARKANSAS MUNICIPAL WATER AND SEWER DEPARTMENT ACCOUNTING LAW

14-237-101. Title.

This chapter shall be known and cited as the "Arkansas Municipal Water and Sewer Department Accounting Law".

History. Acts 1973, No. 148, § 1; A.S.A. 1947, § 19-5201; Acts 2011, No. 620, § 1.

14-237-104. Bank accounts.

All municipal water and sewer departments of this state shall maintain all funds in depositories approved for that purpose by law. The accounts shall be maintained in the name of the municipal water and sewer department.

History. Acts 1973, No. 148, § 3; A.S.A. 1947, § 19-5203; Acts 2011, No. 620, § 2.

14-237-105. Prenumbered receipts or mechanical receipting devices.

(a)(1) All funds received are to be formally receipted at the time of collection or the earliest opportunity by the use of prenumbered receipts or mechanical receipting devices.

(2) However, the use of prenumbered receipts shall not be required for receipting revenues derived from the sale of water to individual consumers where the income is determined by periodic readings of meters and the individual consumer is billed for the water by means of a water bill, part of which must be returned by the consumer with his or her remittance. In those cases, the water and sewer department shall prepare a detailed monthly statement showing the amount billed to each consumer and posting the amount collected from each consumer on a monthly basis. A summary of the monthly statements shall be submitted to the governing body for its review.

(b) In the use of prenumbered receipts, the following minimum standards shall be met:

(1) If manual receipts are used, receipts are to be prenumbered by the printer and a printer's certificate obtained and retained for audit purposes. The certificate shall state the date printing was done, the numerical sequence of receipts printed, and the name of the printer;

(2) The prenumbered receipts shall contain the following information for each item receipted:

(A) Date;

(B) Amount of receipt;

(C) Name of person or company from whom money was received;

(D) Purpose of payment;

(E) Fund to which receipt is to be credited; and

(F) Identification of employee receiving the money; and

(3) If manual receipts are used, the original receipt should be given to the party making payment. One (1) duplicate copy of the receipt shall be maintained in numerical order in the receipt book and made available to the auditors during the course of annual audit. Additional copies of the receipt are optional with the water and sewer department and may be used for any purpose it deems fit.

(c) If an electronic receipting system is used, the system shall be in compliance with the Information Systems Best Practices Checklist provided by the Legislative Joint Auditing Committee.

History. Acts 1973, No. 148, § 4; A.S.A. 1947, § 19-5204; Acts 2011, No. 620, § 3.

14-237-106. Prenumbered checks — Electronic funds transfers.

(a) All disbursements of water and sewer department funds, except those described in this section and as noted in § 14-237-107, are to be made by prenumbered checks drawn upon the bank account of that department.

(b) An electronic funds transfer may be used for payment of debts provided that:

(1) The person responsible for the disbursement maintains a ledger including without limitation the following information:

(A) The name and address of the entity receiving payment;

(B) The routing number of the bank in which the funds are held;

(C) The account number and the accounts clearinghouse trace number pertaining to the transfer; and

(D) The date and amount transferred; and

(2) Written consent for payment by electronic funds transfer is given by the entity to whom the transfer is made.

(c) The checks shall be of the form normally provided by commercial banking institutions and shall contain, as a minimum, the following information:

(1) Date of issue;

(2) Check number;

(3) Payee;

(4) Amount; and

(5) Signature of two (2) authorized disbursing officers of the department.

(d) Disbursements of department funds used for payment of salaries and wages of department officials and employees may be made by electronic funds transfer provided that the department employee or official responsible for disbursements maintains a ledger containing at least the:

(1) Name, address, and Social Security number of the employee receiving payment of salary or wages;

(2) Routing number of the bank in which the funds are held;

(3) Account number and the accounts clearinghouse trace number pertaining to the transfer; and

(4) Date and amount transferred and proof that the employee has been notified of direct deposit of his or her salary or wages by electronic funds transfer.

(e) Disbursements of department funds, other than for payments under subsections (b) and (d) of this section, may be made by electronic funds transfer provided that:

(1) The department's governing body may establish an electronic funds payment system directly into payees' accounts in financial institutions in payment of any account allowed against the department;

(2) For the purposes of this subsection, departments opting for an electronic funds payment system shall establish written policies and procedures to ensure that the electronic funds payment system provides for internal accounting controls and documentation for audit and accounting purposes;

(3) Each electronic funds payment system established under this subsection shall comply with the information systems best practices approved by the Legislative Joint Auditing Committee before implementation by the department; and

(4) A single electronic funds payment may contain payments to multiple payees, appropriations, characters, or funds.

(f) A disbursement of department funds shall have adequate supporting documentation for the disbursement.

History. Acts 1973, No. 148, § 5; A.S.A. 1947, § 19-5205; Acts 2009, No. 642, § 1; 2011, No. 620, § 4; 2019, No. 138, § 3; 2019, No. 383, § 24.

A.C.R.C. Notes. Pursuant to Acts 2019, No. 383, § 26, the amendment of subsection (e) by Acts 2019, No. 138, § 3, supersedes the amendment of subsection (e) by Acts 2019, No. 383, § 24. Acts 2019, No. 383, § 24, amended subsection (e) to read as follows: "(e)(1) Disbursements of department funds, other than for payments under subsections (b) and (d) of this section, may be made by electronic funds transfer.

"(2) The department's governing body may establish an electronic funds payment system directly into payees' accounts in financial institutions in payment of any account allowed against the department.

"(3) A department opting for an electronic funds payment system shall establish an electronic payment method that provides for internal accounting controls and documentation for audit and accounting purposes.

"(4) Each electronic payment method established under subdivision (e)(3) of this section shall be approved by the Legisla-

tive Joint Auditing Committee before implementation by the department.

"(5) A single electronic funds payment may contain payments to multiple payees, appropriations, characters, or funds."

Acts 2019, No. 383, § 26, provided: "Construction and legislative intent. "It is the intent of the General Assembly that:

"(1) The enactment and adoption of this act shall not expressly or impliedly repeal an act passed during the regular session of the Ninety-Second General Assembly;

"(2) To the extent that a conflict exists between an act of the regular session of the Ninety-Second General Assembly and this act:

"(A) The act of the regular session of the Ninety-Second General Assembly shall be treated as a subsequent act passed by the General Assembly for the purposes of:

"(i) Giving the act of the regular session of the Ninety-Second General Assembly its full force and effect; and

"(ii) Amending or repealing the appropriate parts of the Arkansas Code of 1987; and

"(B) Section 1-2-107 shall not apply; and

"(3) This act shall make only technical, not substantive, changes to the Arkansas Code of 1987".

Amendments. The 2019 amendment by No. 138, in (e)(2), substituted "For the purposes of" for "As used in" and substituted "written policies and procedures to ensure that the electronic funds payment system" for "an electronic payment method that"; in (e)(3), substituted "funds payment system" for "payment method" and "under this subsection shall comply with the information systems best practices" for "under subdivision (e)(2) of this section shall be"; and made stylistic changes.

The 2019 amendment by No. 383 redesignated the introductory language of (e) as (e)(1) and the remaining subdivisions accordingly; in (e)(1), deleted "provided that" following "transfer"; substituted "A department" for "As used in this subsection, departments" in (e)(3); and substituted "subdivision (e)(3)" for "subdivision (e)(2)" in (e)(4).

14-237-107. Petty cash funds.

(a) Municipal water and sewer departments are permitted to establish petty cash funds, so long as the funds are maintained as set forth in this section. The establishment of a petty cash fund must be approved by the department's governing body.

(b)(1) In establishing a petty cash fund, a check is to be drawn upon the bank account of the water and sewer department payable to "Petty Cash." That amount may be maintained in the water and sewer department offices for the handling of small expenditures for items such as postage, light bulbs, delivery fees, etc.

(2) A paid-out slip is to be prepared for each item of expenditure from that fund and signed by the person receiving the moneys. These paid-out slips shall be maintained with the petty cash.

(3) When the fund becomes depleted, the department may then draw another check payable to "Petty Cash" in an amount which equals the total paid-out slips issued, and at that time the paid-out slips shall be removed from the petty cash fund and utilized as invoice support for the check replenishing petty cash.

History. Acts 1973, No. 148, § 6; A.S.A. 1947, § 19-5206; Acts 2011, No. 620, § 5.

14-237-108. Fixed asset records.

(a)(1) Each water and sewer department's governing body shall adopt a policy defining fixed assets.

(2) At a minimum, the policy shall set forth the dollar amount and useful life necessary to qualify as a fixed asset.

(b)(1) Each department shall establish by major category and maintain, as a minimum, a listing of all fixed assets owned by the department.

(2) The listing shall be totaled by category with a total for all categories.

(3) The categories of fixed assets shall include the major types, such as:

(A) Land;
(B) Buildings;
(C) Motor vehicles;
(D) Equipment; and
(E) Other.

(c) For each fixed asset, the listing shall contain, as a minimum:

(1) Property item number if used by the department;
(2) Brief description;
(3) Serial number, if available;
(4) Date of acquisition; and
(5) Cost of property.

History. Acts 1973, No. 148, § 7; A.S.A. 1947, § 19-5207; Acts 2011, No. 620, § 6.

14-237-109. Cash receipts journal.

(a) Water and sewer departments shall establish a cash receipts journal or an electronic receipts listing, which shall indicate the:

(1) Receipt number;
(2) Date of the receipt;
(3) Payor;
(4) Amount of the receipt; and
(5) Classification or general ledger account.

(b) Classifications of the receipts shall include the major sources of revenue.

(c)(1) All items of receipts shall be posted to and properly classified in the cash receipts journal or electronic receipts listing.

(2)(A) The journal shall be properly balanced and totaled monthly and on a year-to-date basis.

(B) The journal shall be reconciled monthly to total bank deposits as shown on the department's bank statements.

(3)(A) The electronic receipts listing shall be posted to the general ledger at least monthly.

(B) The general ledger shall be reconciled monthly to total bank deposits as shown on the department's bank statements.

History. Acts 1973, No. 148, § 8; A.S.A. 1947, § 19-5208; Acts 2011, No. 620, § 7.

14-237-110. Cash disbursements journal.

(a) Water and sewer departments shall establish a cash disbursements journal or electronic check register which shall indicate the date, payee, check number or transaction number, amount of each check written or transaction, and classification or general ledger account.

(b) The classifications of expenditures shall include the major type of expenditures by department, such as:

(1) Personal services;

(2) Supplies;

(3) Other services and charges;

(4) Capital outlay;

(5) Debt service; and

(6) Transfers out.

(c)(1) The cash disbursements journal shall be properly balanced and totaled monthly and on a year-to-date basis.

(2) The cash disbursements journal shall be reconciled monthly to total bank disbursements as indicated on the monthly bank statements.

(d)(1) The electronic check register shall be posted to the general ledger at least monthly.

(2) The general ledger shall be reconciled monthly to total bank disbursements as indicated on the monthly bank statements.

History. Acts 1973, No. 148, § 9; A.S.A. 1947, § 19-5209; Acts 2011, No. 620, § 8.

14-237-111. Reconciliation of bank accounts.

(a)(1) All water and sewer departments shall reconcile on a monthly basis their cash receipts and disbursements journals to the amount on deposit in banks.

(2) This reconciliation shall be approved by an official or employee, other than the person preparing the reconciliation, as designated by the governing body of the department.

(3) The reconciliations should take the following form:

"Water and Sewer Department of .....

Date .....

Amount Per Bank Statement Dated				$ .00
Add:	Deposits in transit (Receipts recorded in Cash Receipts Journal not shown on this bank statement).			
DATE		RECEIPTS NO.	AMOUNT	
			$ .00	
			.00	
			.00	.00

Deduct:	Outstanding Checks (Checks issued and dated prior to date of bank statement per Cash Disbursements Journal not having yet cleared the bank).		
CHECK NO.	PAYEE	AMOUNT	
		$ .00	
		.00	
		.00	.00
RECONCILED BALANCE			$ .00"

(b) This reconciled balance shall agree with either the cash balance as shown on the department's check stubs running bank balance or the department's general ledger cash balance, whichever system the department employs.

History. Acts 1973, No. 148, § 10; A.S.A. 1947, § 19-5210; Acts 2011, No. 620, § 9.

14-237-112. Maintenance and destruction of accounting records.

(a) Accounting records can basically be divided into three (3) groups:
(1)(A) Support Documents. Support documents consist primarily of the following items:
(i) Canceled checks;
(ii) Invoices;
(iii) Bank statements;
(iv) Receipts;
(v) Deposit slips;
(vi) Bank reconciliations;
(vii) Check book register or listing;
(viii) Receipts listing;
(ix) Monthly financial reports;
(x) Payroll records;
(xi) Budget documents; and
(xii) Bids, quotes, and related documentation.
(B) These records shall be maintained for a period of at least four (4) years and shall not be disposed of before any required audit for the period in question;
(2)(A) Semipermanent Records. Semipermanent records consist of:
(i) Fixed-asset records and equipment detail records;
(ii) Investment and certificate of deposit records;
(iii) Journals, ledgers, or subsidiary ledgers; and
(iv) Annual financial reports.
(B)(i) These records shall be maintained by the water and sewer department for a period of not less than seven (7) years and shall not be disposed of before any required audit for the period in question.

(ii) For investment and certificate of deposit records, the seven (7) years of required maintenance will begin on the date of maturity;

(3)(A) Permanent Records. Permanent records consist of:

(i) Minutes;

(ii) Employee retirement documents; and

(iii) Annual financial audits.

(B) These records shall be maintained permanently.

(b) When documents are destroyed, the department shall document the destruction by the following procedure:

(1) An affidavit is to be prepared stating which documents are being destroyed and to which period of time they apply, indicating the method of destruction. This affidavit is to be signed by the department's employee performing the destruction and one (1) member of the governing body;

(2) In addition, the approval of the governing body for destruction of the documents shall be obtained and an appropriate note of the approval indicated in the governing body's minutes along with the destruction affidavit. Governing body approval shall be obtained before the destruction.

History. Acts 1973, No. 148, § 12; 1979, No. 616, § 1; A.S.A. 1947, § 19-5212; Acts 2011, No. 620, § 10.

14-237-113. Annual publication of financial statements.

(a)(1) The governing body of each municipal water or sewer department shall cause to be published annually a financial statement of the department, including receipts and expenditures for the period and a statement of the indebtedness and financial condition of the department. The financial statement shall be published one (1) time in a newspaper published in the municipality.

(2) The financial statement shall be at least as detailed as the minimum record of accounts as provided in this chapter.

(3) The financial statement shall be published by April 1 of the following year.

(b) In municipalities where no newspaper is published, the financial statement shall be posted in two (2) public places in the municipality.

History. Acts 1973, No. 148, § 15 as added by 1977, No. 309, § 1; A.S.A. 1947, §§ 19-5213, 19-5214; Acts 2011, No. 620, § 11.

CHAPTER 238

RURAL WATERWORKS FACILITIES BOARDS

Effective Dates. Acts 1999, No. 942, § 7: Mar. 29, 1999. Emergency clause provided: "It is hereby found and determined by the Eighty-second General Assembly that many water associations and other nonprofit corporations providing water and sewer services could serve their customers better by transferring their operations to a rural waterworks facilities board, and that current law does not provide users with adequate opportunity to participate in making recommendations to the board and in the selection of board members. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto."

14-238-108. Members — Compensation.

(a) Each board shall consist of five (5) members unless there is an expansion of the board to provide services outside the county which created it.

(b)(1) The initial members shall be appointed by the county judge of the creating county for terms of one (1), two (2), three (3), four (4), and five (5) years, respectively.

(2) When a rural waterworks facilities board is created to assume the operations of an existing nonprofit corporation that provides water or sewer service, the county judge shall appoint the initial members from a list of nominees provided by the nonprofit corporation's board of directors.

(3) Successor members shall be elected by a majority of the board or by alternative member selection as set forth in § 14-238-124 for terms of five (5) years.

(4) Each member shall serve until his or her successor is elected and qualified.

(5) A member shall be eligible to succeed himself or herself.

(c) Each member shall qualify by taking and filing with the clerk of the county creating the board his or her oath of office in which he or she shall swear to support the United States Constitution and the Arkansas Constitution and to discharge faithfully his or her duties in the manner provided by law.

(d) In the event of a vacancy in the membership of the board, however caused, a majority of the board shall elect a successor member to serve the unexpired term.

(e) The members of the board shall receive no compensation for their services but shall be entitled to reimbursement for reasonable and necessary expenses incurred in the performance of their duties.

(f) Any member of the board may be removed for misfeasance, malfeasance, or willful neglect of duty by the county judge of the county which created the board, after reasonable notice of and an opportunity to be heard concerning the alleged grounds for removal.

(g)(1)(A) If the jurisdiction of a board, pursuant to interlocal agreements, expands to provide services outside the boundaries of the

county from which it obtains power, then not more than two (2) additional members per county may be added pursuant to the terms of any relevant interlocal agreement.

(B) These members shall initially be appointed by the county judge of the noncreating county and shall serve for a term agreed upon in the interlocal agreement, provided that the term shall not exceed five (5) years.

(2)(A) The other provisions of this section shall apply to these additional members.

(B) Provided, no additional member shall be eligible to serve as chair of the board.

History. Acts 1995, No. 617, § 8; 1999, No. 942, § 1.

Cross References. Compensation of State boards, § 25-16-901 et seq.

14-238-110. Meetings — Quorum — Actions — Records.

(a)(1) Each board shall meet upon the call of its chair or a majority of its members and at such times as may be specified in its bylaws for regular meetings.

(2) At least annually, the board shall hold a users meeting at which time it shall accept comments and recommendations from its users. The meeting may be held in conjunction with a regular board meeting. Notice of the users meeting shall be sent by first-class mail to each user and may be sent with the user's bill.

(3) A majority of its members shall constitute a quorum for the transaction of business.

(4) No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board.

(b)(1) The affirmative vote of a majority of the members present at a meeting of the board shall be necessary for any action taken by the board.

(2) Any action taken by the board shall be by resolution, and such resolution shall take effect immediately unless a later effective date is specified in the resolution.

(c)(1) The secretary of the board shall keep a record of the proceedings of the board and shall be custodian of all books, documents, and papers filed with the board and of the minute book or journal of the board and of its official seal.

(2) The secretary may cause copies to be made of all minutes and other records and documents of the board. He or she may give certificates under the official seal of the board to the effect that the copies are true copies, and all persons dealing with the board may rely upon the certificates.

(3) Records and documents of the boards shall be preserved and maintained at such locations and in such manner as prescribed by ordinance of the county which created the boards.

History. Acts 1995, No. 617, § 10; 1999, No. 942, § 2.

14-238-124. Alternative membership selection.

(a) If so prescribed, successor members shall be elected by a majority of members from a list of nominated candidates.

(b) A candidate may be nominated by petition of twenty-five (25) users or ten percent (10%) of the number of total users as of January 1 preceding the election, whichever is less. A petition shall be filed thirty (30) days prior to the expiration of the term of the member whose seat the candidate seeks.

(c) Each water or sewer service connection, or both, shall be considered a "user" for purposes of this chapter.

(d) Use of this alternative member selection may be prescribed by the ordinance creating the board or the board may irrevocably select this method of member selection by properly adopted resolution. The resolution shall be filed with the county clerk of the creating county.

History. Acts 1999, No. 942, § 3.

SUBTITLE 15. SOLID WASTE DISPOSAL, WATERWORKS, AND SEWER IMPROVEMENT DISTRICTS

CHAPTER 249

SUBURBAN SEWER DISTRICTS

SECTION.
14-249-101. Applicability.

14-249-101. Applicability.

Sections 14-249-103 — 14-249-106 are primarily intended to regulate connections to sewer systems operating where there are now no regulations or rules as to sewer connections, and they shall not apply to connections made to sewer lines located in cities or towns of the first or second class.

History. Acts 1941, No. 51, § 6; A.S.A. 1947, § 20-807; Acts 2019, No. 315, § 1030.

Amendments. The 2019 amendment inserted "or rules".

CHAPTER 250

WASTEWATER TREATMENT DISTRICTS

SECTION.
14-250-102. Definitions.
14-250-106. Petition to establish.
14-250-107. Review of petition.

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

14-250-102. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Acquire" means and includes construct or acquire by purchase, lease, devise, gift, or other mode of acquisition;

(2) "Board" or "board of directors" means the board of a wastewater district organized under the authority of this chapter;

(3) [Repealed.]

(4) "District" or "wastewater district" means a nonprofit regional wastewater treatment district organized under the authority of this chapter;

(5) "Obligation" includes bonds, notes, debentures, interim certificates or receipts, and all other evidences of indebtedness issued by a regional wastewater district formed under this chapter; and

(6) "Person" includes any natural person, firm, association, corporation, business trust, partnership, federal agency, state agency, state or political subdivision thereof, municipality, or any body politic.

History. Acts 1983, No. 608, § 2; A.S.A. 1947, § 20-2302; Acts 1999, No. 1164, § 129; 2019, No. 910, § 3041.

Amendments. The 2019 amendment repealed (3).

14-250-106. Petition to establish.

(a) When resolutions proposing creation of a regional wastewater collection and treatment district are passed by the councils or other governing bodies of two (2) or more municipalities, a petition to establish a regional wastewater collection and treatment district may be submitted to the circuit court of a county which contains a significant portion of the proposed district.

(b) The petition shall contain a duly executed resolution from each entity authorizing each entity to be included in the district, provided that, in any unincorporated area, fifty-one percent (51%) of property owners by number shall approve by petition before being included in the district. The petition shall also contain:

(1) An accurate description and a map of the area to be served initially;

(2) A brief statement showing the need for formation of the district and describing the benefits to be received by residents or property owners in the area;

(3) The proposed name of the district;

(4) The proposed location of the principal office of the district; and

(5) A bold heading stating that a signature on the petition is a vote to create the district.

History. Acts 1983, No. 608, § 3; A.S.A. 1947, § 20-2303; Acts 2019, No. 1025, § 10.

Amendments. The 2019 amendment added (b)(5); and made a stylistic change.

14-250-107. Review of petition.

(a)(1) Upon the filing of the petition in the office of the circuit court for the county, or any one of the counties, where the district is to be located, in whole or in part, the clerk shall prepare a certified copy of the petition and transmit the copy to the department within five (5) days from the date of the filing of the petition.

(2) Upon receipt of the certified copy, the department shall institute an investigation of the proposed district, its territory, and purposes and, within thirty (30) days after receipt of the copy, shall transmit a written report of its findings on the petition to the clerk of the circuit court.

(3) The report shall include any pertinent information related to the advisability or inadvisability of establishment of the proposed district.

(b) Between thirty (30) and sixty (60) days after the report of the department has been filed in the office of the circuit clerk, the petition shall be presented to the judge of the circuit court of the county, either in term or vacation, and the court shall thereupon enter its order setting a hearing upon the petition and directing the clerk of the court to give notice of the hearing by publication for two (2) consecutive weeks on the website of the county or of the Secretary of State, if available, and in a newspaper or newspapers having a general circulation in each of the entities comprising the proposed district. The notice shall contain:

(1) A brief and concise statement describing the purpose of the hearing;

(2) A description of the territory to be embraced within the district;

(3) A brief and concise statement of the action of the department; and

(4) A warning to all persons residing or owning property within the boundaries of the proposed district to appear upon the date and at the time and place of the hearing to show cause, if there is any, why the petition should not be granted.

History. Acts 1983, No. 608, § 4; A.S.A. 1947, § 20-2304; Acts 2019, No. 1025, § 11.

Amendments. The 2019 amendment, in the first sentence of (b), substituted "Between thirty (30) and sixty (60) days" for "Within thirty (30) days" and inserted "on the website of the county or of the Secretary of State, if available, and"; and added "and" at the end of (b)(3).

CHAPTER 251

WATER IMPROVEMENT DISTRICTS

14-251-105. Injunction.

(a) Anything to the contrary in this chapter notwithstanding, the State Board of Health may obtain an injunction restraining the operating authority from permitting a recreational activity if the rules and regulations adopted by the operating authority or if the provisions of any lease granted by the operating authority, do not adequately protect the water supply from pollution, or if the rules and regulations or the terms of any lease are not properly enforced by the operating authority.

(b) Any operating authority may obtain prohibitive and mandatory injunctions against any person, firm, or corporation polluting its water supply or refusing to obey lawful rules and regulations adopted by the operating authority or the State Board of Health for the protection of any municipal water supply.

History. Acts 1959, No. 204, § 11; A.S.A. 1947, § 19-4238.2; Acts 2019, No. 315, § 1031.

Amendments. The 2019 amendment inserted "rules and" in (b).

14-251-108. Designation of warden.

(a) Any employee of the operating authority may be designated as a warden.

(b) Wardens shall have the authority to arrest or apprehend any person whom they believe to have violated this chapter, or the boating laws of this state, or the rules and regulations of the operating authority which are authorized in this chapter, or the rules of the State Board of Health pertaining to protection of municipal water supplies and may take the offender when apprehended before any court having jurisdiction of the offense. Wardens shall have no authority to make arrests for violation of the game and fish laws, rules, and regulations of this state.

History. Acts 1959, No. 204, § 7; A.S.A. 1947, § 19-4237; Acts 2019, No. 315, § 1032.

Amendments. The 2019 amendment deleted "and regulations" preceding "of the State Board of Health" in (b).

SUBTITLE 16. PUBLIC HEALTH AND WELFARE GENERALLY

CHAPTER 262

LOCAL HEALTH AUTHORITIES

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

14-262-101. Penalties.

(a) Every firm, person, or corporation violating any of the provisions of this chapter, or any of the orders, rules, or regulations made and promulgated in pursuance hereof, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or by imprisonment not exceeding one (1) month, or both. Each day of violation shall constitute a separate offense.

(b)(1) Every firm, person, or corporation who violates any of the rules or regulations issued or promulgated by the board, or who violates any condition of a license, permit, certificate or any other type of registration issued by the State Board of Health may be assessed a civil penalty by the board. The penalty shall not exceed one thousand dollars ($1,000) for each violation. Each day of a continuing violation may be deemed a separate violation for purposes of penalty assessments. However, no civil penalty

may be assessed until the person charged with the violation has been given the opportunity for a hearing on the violation.

(2) All fines collected under this subsection shall be deposited into the State Treasury and credited to the Public Health Fund to be used to defray the costs of administering this section.

(3) Subject to such rules as may be implemented by the Chief Fiscal Officer of the State, the disbursing officer for the Department of Health is authorized to transfer all unexpended funds relative to fines collected under this subsection, as certified by the Chief Fiscal Officer of the State, to be carried forward and made available for expenditures for the same purpose for any following fiscal year.

(4) All rules promulgated pursuant to this subsection shall be reviewed by the House Committee on Public Health, Welfare, and Labor and the Senate Committee on Public Health, Welfare, and Labor or appropriate subcommittees thereof.

History. Acts 1913, No. 96, § 28; C. & M. Dig., § 5146; Pope's Dig., § 6417; A.S.A. 1947, § 82-121; Acts 1987, No. 146, § 2; 1991, No. 990, §§ 2, 5; 1997, No. 179, § 10; 2019, No. 315, § 1033.

Amendments. The 2019 amendment deleted "and regulations" following "rules" in (b)(3) and (b)(4).

14-262-102. City board of health.

(a) A city of the first class or city of the second class may establish a city board of health to be constituted as follows:

(1) The mayor of the city may appoint no fewer than five (5) persons, two (2) of whom shall be physicians who shall be graduates of reputable medical colleges and of good professional standing, who shall constitute a city board of health, and who shall have and exercise the powers conferred upon those boards by law and by the ordinances of the city; and

(2) The mayor of the city shall be an ex officio member of the board.

(b)(1) The city council shall have the power to establish a board of health.

(2) The board shall have jurisdiction for one (1) mile beyond the city limits, and for quarantine purposes, in cases of epidemic, five (5) miles.

(c) The city council shall have power to invest the board with such powers and impose upon it such duties as shall be necessary to:

(1) Secure the city and its inhabitants from the evils of contagious, malignant, and infectious diseases;

(2) Provide for its proper organization and the election or appointment of the necessary officers; and

(3) Make such bylaws, rules, and regulations for its government and support as shall be required for enforcing the prompt and efficient performance of its duties and the lawful exercise of its powers.

History. Acts 1875, No. 1, § 6, p. 1; 1913, No. 96, § 14; C. & M. Dig., §§ 5154, 7593; Pope's Dig., §§ 6433, 9679; A.S.A. 1947, §§ 82-203, 82-204; Acts 2003, No. 282, § 1.

CASE NOTES

Nuisances.

In a case involving a rock quarry that was located entirely outside, but within one mile of, the corporate limits of a city in which a district court issued a preliminary injunction enjoining Fayetteville, Ark. Ordinance No. 5280 prior to its enforcement date, city argued that the company that operated the quarry was unlikely to succeed on the merits of its claim that the city authority to license and regulate its quarry, because the ordinance was enacted pursuant to § 14-54-103(1). Contrary to the city's argument, since the quarry was located outside the corporate city limits but within one mile of those limits, the city could not regulate the quarry without a judicial determination that its activities constituted a nuisance, and no such judicial determination had been made; the quarry was not a nuisance per se. Rogers Group, Inc. v. City of Fayetteville, 629 F.3d 784 (8th Cir. 2010).

14-262-103. City health officer.

(a) The office of city health officer may be created by the governing body of a city of the first class, city of the second class, or an incorporated town.

(b) The office of city health officer shall be filled by a competent physician who is legally qualified to practice medicine within this state, a graduate of a reputable medical college, and of reputable professional standing.

(c)(1)(A) It is the duty of the mayor of each incorporated city and town within this state to elect a qualified person to the office of city health officer if the governing body of the city or town creates the office.

(B) The appointment shall be approved by a majority of the votes of the city or town council.

(2) After appointment, the city health officer shall:

(A) Take and subscribe to the constitutional oath of office;

(B) File a copy of the appointment with the State Board of Health; and

(C) Not be deemed to be legally qualified until the copies have been so filed.

(d)(1) Each city health officer shall perform such duties as may be required by the ordinances of his or her city or town.

(2) The officer shall discharge and perform such duties as may be prescribed for him or her under the directions, rules, regulations, and requirements of the board.

(3) The officer shall be required to aid and assist the board in all matters of quarantine, vital and mortuary statistics, inspection, disease prevention and suppression, and sanitation within his or her jurisdiction.

(4) The officer shall at all times report to the board, in such manner and form as shall be prescribed by the board, the presence of all contagious, infectious, and dangerous epidemic diseases within his or her jurisdiction and shall make such other and further reports in the manner and form and at the times as the board shall direct, touching all matters as may be proper for the board to direct.

(5) The officer shall aid the board at all times in the enforcement of proper rules, regulations, and requirements in the enforcement of all sanitary laws, quarantine regulations, and vital statistics collections and shall perform any other duties the board shall direct.

(e) The compensation of city health officers shall be fixed by the mayor and council of the respective towns and cities within this state.

History. Acts 1913, No. 96, §§ 15-20; C. & M. Dig., §§ 5155-5160; Pope's Dig., §§ 6434-6439; A.S.A. 1947, §§ 82-205 — 82-210; Acts 2003, No. 282, § 2.

14-262-104. County health officer.

(a) The office of county health officer is created in each county within the state.

(b) The State Board of Health, upon recommendation of the county judge, shall appoint for each county in this state a health officer who shall serve a term of four (4) years and may be reappointed for additional terms.

(c)(1) The county health officer shall be a graduate of an accredited and reputable medical or osteopathic university, shall be licensed to practice medicine in Arkansas, and shall have had at least three (3) years' experience in the practice of medicine in this state.

(2) Time spent in the practice of medicine while in the services of the United States Armed Forces shall be accepted as equivalent to time spent in the practice of medicine in Arkansas.

(d)(1)(A) The county health officer shall serve as a key public health representative in the local community.

(B) The duties of the county health officer shall include without limitation:

(i) Promoting the use of local health unit services;

(ii) Advocating for public health policy initiatives with local and state policy makers;

(iii) Providing assistance to local public health education and promotion of initiatives; and

(iv) Establishing a regular communication process with the local health unit administrator.

(2) The county health officer also shall aid and assist the board and collaborate with the State Health Officer and the Department of Health in county emergency preparedness response and planning including without limitation:

(A) Implementing orders of the State Health Officer if isolation, quarantine, or emergency legal measures are required;

(B) Participating in the development, review, or both development and review of local emergency plans; and

(C) Serving as a local spokesperson to media, general public, and medical community in the event of a public health emergency.

(3) The county health officer also shall support the board, the State Health Officer, and the department with any infectious or communicable disease outbreaks by, without limitation:

(A) Assisting in containment and management of an infectious disease outbreak under the direction of state public health officials;

(B) Providing prescriptive support for medication as appropriate; and

(C) Serving as local spokesperson to media, the community at large, and the medical community in the event of infectious disease outbreak based on information provided by the department.

(e) The county health officer shall make reports to the board and the department as requested.

(f) The county health officer also shall perform other duties as prescribed under rules of the board.

(g) The county health officer may receive an annual salary to be fixed by the county court, which may be payable monthly out of the county treasury.

(h) Upon the failure of the county health officer to perform the duties of his or her office, as required by this section, he or she may be removed by the board.

(i) When performing official duties, a county health officer is immune from civil suit and liability in the same manner officers and employees of the State of Arkansas are immune under § 19-10-305 and Arkansas Constitution, Article 5, § 20.

History. Acts 1913, No. 96, § 13; C. & M. Dig., § 5153; Pope's Dig., § 6432; Acts 1949, No. 79, § 1; A.S.A. 1947, § 82-201; Acts 2009, No. 696, § 1.

14-262-109. County or district health departments — Powers and duties.

(a) Each county and district health department shall have and exercise, in addition to all other powers and duties imposed upon it by law, the following powers and duties:

(1) To administer and enforce the laws pertaining to public health and vital statistics and the orders, rules, and standards promulgated by the State Board of Health;

(2) To investigate and control the cause of epidemic and communicable disease affecting the public health;

(3) To establish, maintain, and enforce isolation and quarantine, and, in pursuance thereof and for this purpose only, to exercise such physical control over property and over the persons of the people within the jurisdiction of the department as the department may find necessary for the protection of the public health;

(4) To make any necessary sanitary and health investigations and inspections on its own initiative or in cooperation with the Department of Health as to any matters affecting public health, within the jurisdiction and control of the department;

(5) To cooperate with the Department of Health and the State Board of Health in all matters pertaining to public health;

(6) To initiate and carry out health programs, not inconsistent with law, that may be deemed necessary or desirable for the protection of the public health and the control of disease.

(b) A representative of the county health department may visit any or all schools in a school district when requested to do so by the superintendent of schools or other appropriate official of the district for the purpose of checking for and assisting with medical problems of students at the school.

History. Acts 1949, No. 186, § 7; 1979, No. 601, § 1; A.S.A. 1947, §§ 82-220, 82-220.1; Acts 2019, No. 315, § 1034.

Amendments. The 2019 amendment deleted "regulations" following "rules" in (a)(1).

14-262-112. Public health officers — Powers and duties.

In addition to the other powers and duties conferred and imposed upon a public health officer in this act, the officer, in person or through the other officers and employees of the department, shall have and exercise the following powers and duties:

(1) To administer and enforce the public health laws of the State of Arkansas; the orders, rules, and standards of the State Board of Health; and the orders, rules, and regulations of the county or district board of health;

(2) To exercise all powers and duties conferred and imposed upon county or district health departments not expressly delegated to county or district boards of health by the provisions of this act;

(3) To act as the local registrar of vital statistics for the area over which his or her county or district health department has jurisdiction, as follows:

(A) In county health departments, he or she shall collect fees for this service that shall be credited to the department fund and used in the administration of the department;

(B) In district health departments, the health officer shall appoint a deputy registrar in each county who shall be a full-time employee of the department, and the fees collected for this service shall be credited to the department and used in the administration of the department.

(4) To be custodian of all property and records of the department;

(5) To submit to the State Board of Health an annual report of the administration of his or her department and such information as may be required, to maintain such records as may be prescribed by the State Board of Health, and to provide such reports as may be requested, including the provision of an annual report.

History. Acts 1949, No. 186, § 8; A.S.A. 1947, § 82-221; Acts 2019, No. 315, § 1035.

Amendments. The 2019 amendment deleted "regulations" following the first occurrence of "rules" in (1).

14-262-115. County or district boards of health — Powers and duties.

(a) In addition to all other powers and duties conferred and imposed upon county and district boards of health by the provisions of this act, the boards shall have and exercise the following specific powers and duties:

(1) To provide, equip, and maintain suitable offices and all necessary facilities for the proper administration and operation of the county or district health department;

(2) To determine general policies to be followed by the public health officer in administering and enforcing the public health laws, rules, and regulations of the board and the orders, rules, and standards promulgated by the State Board of Health;

(3) To act in an advisory capacity to the public health officer on all matters pertaining to public health;

(4) To issue from time to time such orders and to adopt such rules and regulations, not inconsistent with the public health laws of this state nor with the orders and rules of the State Board of Health, as the board may deem necessary for the proper exercise of the powers and duties vested in or imposed upon a county or district health department or board of health by this act.

(b) All statutes, rules, and regulations in force on February 28, 1949, which relate to matters concerning public health in municipalities coming under the jurisdiction of the county or district boards, as set forth in § 14-262-107, shall remain in full force and shall be enforceable by the boards unless and until they are amended or repealed by proper authority or unless they are repugnant to the provisions of this act.

History. Acts 1949, No. 186, § 5; A.S.A. 1947, § 82-218; Acts 2019, No. 315, §§ 1036, 1037.

Amendments. The 2019 amendment deleted "regulations" following the second occurrence of "rules" in (a)(2); and substituted "orders and rules" for "orders, rules, and regulations" in (a)(4).

14-262-116. City health department in cities with a population of 25,000 or more — City board of health — City health officer.

(a) Within thirty (30) days after the entry of an order by the city council of a city of twenty-five thousand (25,000) or more, according to the most recent federal census, to establish and maintain a city health department, the city council shall proceed to organize a health department by the appointment of a city board of health.

(b)(1) Every city board of health shall consist of five (5) members, two (2) of whom shall have a degree of Doctor of Medicine from a medical school approved by the Council on Medical Education and Hospitals, or its successor, of the American Medical Association, to be appointed by the mayor for a five-year term, except that the members first appointed shall be so designated that one shall serve for one (1) year, one for two (2) years, one for three (3) years, one for four (4) years, and one for five

(5) years, from January 1 of the year appointed; thereafter, full-term appointments shall be for five (5) years.

(2) All members shall be residents of the city.

(3) Appointments shall be made to the board so that no business or professional group shall constitute a majority of the board.

(4) Any vacancy on the board shall be filled by the mayor in the same manner as full-term appointments by the appointment of a qualified person for the unexpired term.

(5) At its organizational meeting, the board shall elect from its members a president and such other officers as it shall determine.

(6) The city health officer of the city health department, as provided in this act, in the discretion of the board, may serve as secretary, but he or she shall not be a member of the board.

(7) All officers shall hold office at the pleasure of the board.

(8) Regular meetings of the board shall be held not less than one (1) time every year, at such time as may be fixed by resolution of the board. Special meetings of the board may be called by the president, by the city health officer, or by a majority of the members of the board, at any time with three (3) days' notice by mail, or, in case of emergency, with twenty-four (24) hours' notice by telephone or telegraph.

(9) The board may adopt, and at any time amend, bylaws in relation to its meetings and the transaction of its business.

(10) A majority shall constitute a quorum of the board.

(11) Members shall serve without compensation.

(12) The powers and duties of the city board of health are to be the same as set forth in § 14-262-115.

(c)(1) In a city of twenty-five thousand (25,000) or more establishing a city health department, the office of city health officer shall be created and filled by a doctor who has a degree of Doctor of Medicine from a medical school approved by the Council on Medical Education and Hospitals, or its successor, of the American Medical Association, and who shall possess such qualifications as may be prescribed by the State Board of Health.

(2) The city health officer of each incorporated city of twenty-five thousand (25,000) or more which establishes a city health department shall be appointed by the mayor and approved by the city council to serve on a full-time basis for four (4) years.

(3) The city health officer, after appointment, shall take and subscribe to the constitutional oath of office, shall file a copy of his or her appointment with the State Board of Health, and shall not be deemed qualified to serve until the copy has been filed.

(4) Each city health officer shall perform the following:

(A) Such duties as may be required by the city board of health and the city council;

(B) Such duties as may be required of him or her by general law and the city board of health, mayor, council, or ordinances with regard to the general health and sanitation of towns and cities; and

(C) Such duties as shall be legally required of him or her by general law and the city board of health, mayor, councils, or ordi-

nances of the city or town, or by the directions, rules, and requirements of the State Board of Health.

(5) The powers and duties of the city health officer shall be the same as those set forth in § 14-262-112.

History. Acts 1949, No. 186, § 11; A.S.A. 1947, § 82-224; Acts 2019, No. 315, § 1038.

Amendments. The 2019 amendment deleted "regulations" following "rules" in (c)(4)(C) and made stylistic changes.

14-262-119. County Organization of State Aid Fund.

(a)(1) In addition to any and all other appropriations made for the State Board of Health, there may be made an appropriation which shall be known as the "County Organization of State Aid Fund", which shall be expended exclusively for this purpose.

(2) The fund shall be available to any county whenever the county shall make an appropriation of an adequate sum of money, to be approved by the Secretary of the Department of Health, necessary to do effective work.

(3) All counties which shall be found organized for this work on July 1 of each year shall receive priority in the allocation of funds.

(b)(1) Before any county shall receive state aid under the provisions of this section, a cooperative budget shall be prepared by the county judge, the Secretary of the Department of Health, and any other agency which may be contributing and shall be signed by each.

(2) The Secretary of the Department of Health shall draw vouchers against the fund, as provided in the cooperative budget, in the usual manner.

History. Acts 1925, No. 360, §§ 1, 2; Pope's Dig., §§ 6444, 6445; A.S.A. 1947, §§ 82-212, 82-213; Acts 2019, No. 910, § 4859.

Amendments. The 2019 amendment substituted "Secretary of the Department of Health" for "Director of the Department of Health" throughout the section.

CHAPTER 263

BOARD OF GOVERNORS FOR COUNTY HOSPITALS

SECTION.

14-263-103. Creation.

(a) There is created in each county in this state owning a county hospital a board of governors which shall be charged with the responsibility of the management, control, and operation of the county hospital as provided in this chapter.

(b)(1) If there is more than one (1) county hospital in any one (1) county, the hospitals may be operated under the management and control of a single board of governors, or the quorum court of the county,

if it so elects, may establish, by an appropriate ordinance, a board of governors of each county hospital.

(2) The ordinance of the quorum court providing for a separate board of governors for each such hospital shall designate the county hospital over which each board shall have jurisdiction.

(3) When the quorum court establishes a separate board of governors for each county hospital in the county, each board of governors shall be constituted, shall be appointed, and shall have the duties, powers, and responsibilities with reference to the county hospital over which it has jurisdiction as specified in this chapter.

(c) The existence of a board of governors is no longer required once the county rather than the board of governors has leased the hospital facilities in accordance with § 14-263-106.

History. Acts 1977 (1st Ex. Sess.), No. 13, § 1; A.S.A. 1947, § 17-1501; Acts 2007, No. 561, § 1.

14-263-106. Contracting or leasing of hospital facilities.

(a)(1) Should the board of governors determine that it would be in the best interests of the citizens of the county that the hospital be operated or leased to an individual, a firm, or a corporation, the board of governors may contract or lease the equipment and hospital facilities to the individual, firm, or corporation for a period of time and for consideration and conditions the board of governors may deem wise, subject to approval of the contract or lease by the county judge and the quorum court of the county in which the hospital is located.

(2) With the recommendation of the board of governors, the county may be the lessor of the hospital rather than the board.

(3) Once a lease has been entered into by the county rather than the board of governors, there shall be no requirement for a future recommendation by the board of governors for a subsequent lease by the board of governors before entering into the lease, and the county may enter into contracts concerning the hospital without the recommendation of the board of governors.

(b) If the county rather than the board of governors leases the hospital facilities in accordance with subsection (a) of this section, the duties of managing, controlling, and supervising the operation of the county hospital, as described in § 14-263-105, shall be imposed upon the lessee, which shall eliminate the requirement that a board of governors submit monthly reports or be in place for the duration of the term of the lease and any extensions thereof, unless the quorum court and county judge determine the board should continue in its existence or should be reinstated.

(c) Once the board of governors has made its initial determination that it is in the best interests of the citizens of the county to lease the hospital, the county, if it is the lessor, will thereafter be responsible for all matters pertaining to the lease, the facilities, and the lessee, including without limitation:

(1) Renewal or extension of the lease; or

(2) Any conflicts that may arise pertaining to the lease or the lessee.

(d)(1) This section applies to all hospital leases adopted before July 31, 2007, adopted or entered under the authority of this section.

(2) All such leases adopted or entered into before July 31, 2007, shall be considered for all purposes as if adopted or entered into under this section.

(3) A lease adopted before July 31, 2007, shall not be held to be invalid by reason of § 14-263-103 and this section.

History. Acts 1977 (1st Ex. Sess.), No. 13, § 4; A.S.A. 1947, § 17-1504; Acts 2007, No. 561, § 2.

CHAPTER 266

AMBULANCE LICENSING ACT

14-266-101. Title.

This chapter shall be known as the "Ambulance Licensing Act".

History. Acts 1981 (1st Ex. Sess.), No. 23, § 1; A.S.A. 1947, § 19-5901; Acts 2017, No. 1122, § 1.

Amendments. The 2017 amendment substituted "'Ambulance Licensing Act'" for "'Municipal Ambulance Licensing Act'".

14-266-102. Legislative determination.

(a)(1) It is legislatively determined that it may be desirable for cities of the first class, cities of the second class, and counties within this state to be authorized to own, operate, permit, control, manage, franchise, license, and regulate emergency medical services, emergency medical technicians, emergency and nonemergency ambulances, ambulance companies, their relative properties, facilities, equipment, personnel, and all aspects attendant to providing emergency medical services and ambulance operations as the cities and counties may deem proper to provide for the health, safety, and welfare of their citizens.

(2) In addition, it is legislatively determined that, in order to accomplish the purposes enumerated in this chapter, it may also be necessary for the cities and counties, in addition to all other powers granted in this chapter, to enact and establish standards, rules, and regulations that are equal to, or greater than, the minimum standards and rules established by the state, pursuant to §§ 20-13-201 — 20-13-209 and 20-13-211, concerning emergency medical services,

emergency medical technicians, ambulances, ambulance companies, their relative properties, facilities, equipment, personnel, and all aspects attendant to providing emergency medical services and ambulance operations within the boundaries of their respective cities or in respect to the unincorporated areas of the county.

(3) Further, it is the legislative intent that the standards, rules, and regulations shall not be less than those established by the state.

(b)(1) It is further legislatively determined that emergency medical services and ambulance operations, when subjected to competitive practices of multiple companies simultaneously serving the same city or with respect to the unincorporated areas of the county, operate under precarious financial conditions and that this type of competition is harmful to the health, safety, and welfare of residents of the state.

(2) However, it is also legislatively determined that periodic competition among companies for the right to provide ambulance services offers a safe and effective means of encouraging fair and equitable private-sector participation.

(3) Therefore, in order to ensure the availability of state-of-the-art advanced life-support systems and ambulance systems, the General Assembly specifically delegates and grants to cities of the first class, cities of the second class, and counties the power to contract exclusively or otherwise, using competitive procurement methods, for the provision of emergency medical services and ambulance services for the city and within the unincorporated areas of the county to provide continuing supervision of those services.

(c)(1) The General Assembly has determined that this chapter grants cities of the first class, cities of the second class, and counties broad authority regarding emergency medical services and nonemergency medical services.

(2) The General Assembly has further determined that cities of the first class, cities of the second class, and counties should be allowed to enter into agreements with other cities within the county where they are located or with the county wherein they are located regarding emergency medical services and nonemergency medical services.

(3) Therefore, cities of the first class and cities of the second class may enter into interlocal agreements with other cities located within the county wherein the city of the first class or city of the second class is located, or with the county wherein the city of the first class or city of the second class is located, and thereby exercise as a cooperative governmental unit all power granted to the city of the first class, city of the second class, or county by this chapter.

History. Acts 1981 (1st Ex. Sess.), No. 23, § 2; A.S.A. 1947, § 19-5902; Acts 1987, No. 407, § 3; 1989, No. 196, § 1; 2017, No. 1122, § 2; 2019, No. 315, § 1039.

Amendments. The 2017 amendment inserted "and counties" throughout (a) and (b); added "or in respect to the unincorporated areas of the county" at the end of (a)(2) and inserted similar language in (b)(1) and (b)(3); redesignated (c) as (c)(1) through (c)(3); inserted "and counties" in (c)(1) and (2); inserted "or county" in (c)(3); and made stylistic changes.

The 2019 amendment substituted "standards and rules established" for "standards, rules, and regulations established" in (a)(2).

14-266-103. Definitions.

As used in this chapter:

(1) "Emergency medical services" means the transportation and emergency medical services personnel care provided to the critically ill or injured before arrival at a medical facility by licensed emergency medical services personnel and within a medical facility subject to the individual approval of the medical staff and governing board of that facility; and

(2)(A) "Nonemergency ambulance services" means the transport in a motor vehicle to or from medical facilities, including without limitation hospitals, nursing homes, physicians' offices, and other healthcare facilities of persons who are infirm or injured and who are transported in a reclining position.

(B) "Nonemergency ambulance services" does not include transportation provided by licensed hospitals that own and operate the ambulance for their own admitted patients.

History. Acts 1981 (1st Ex. Sess.), No. 23, § 3; A.S.A. 1947, § 19-5903; Acts 2009, No. 689, § 3; 2011, No. 778, § 4; 2013, No. 1218, § 1.

14-266-104. Applicability and construction.

(a) This chapter does not apply to nonprofit or hospital-based ambulance services operated on November 1, 1981, by a nonprofit organization or an Arkansas hospital licensed by the Department of Health.

(b) This chapter does not expand the authority of emergency medical technicians or other ambulance personnel beyond the authority existing under applicable law.

(c) This chapter does not give cities or counties the power to regulate regional or state emergency medical service communication facilities.

History. Acts 1981 (1st Ex. Sess.), No. 23, § 3; A.S.A. 1947, § 19-5903; Acts 2017, No. 1122, § 3.

Amendments. The 2017 amendment substituted "This chapter does not" for "Nothing in this chapter shall" in (a); in (b), substituted "This chapter does not expand" for "Nothing in this chapter shall be construed as expanding" and deleted "Arkansas" following "applicable"; and, in (c), substituted "This chapter does not give cities or counties" for "Nothing in the chapter shall be construed to give cities" and deleted "in any way" following "regulate".

14-266-105. Grant of authority.

(a) Cities of the first class, cities of the second class, and counties may:

(1)(A) Enact and establish standards, rules, and regulations that are equal to or greater than those established by the state concerning emergency medical services and emergency medical services person-

nel, emergency and nonemergency ambulances, and ambulance companies, as defined under §§ 20-13-201 — 20-13-209 and 20-13-211.

(B) However, the standards, rules, and regulations shall not be less than those established by this state;

(2) Establish, own, operate, regulate, control, manage, permit, franchise, license, and contract with, exclusively or otherwise, emergency medical services, ambulances, ambulance companies, and their relative properties, facilities, equipment, personnel, and any aspects attendant to emergency medical services and ambulance operations, whether municipally owned or otherwise, including without limitation:

(A) Rates;

(B) Fees;

(C) Charges; and

(D) Other assessments the cities and counties consider proper to provide for the health, safety, and welfare of their citizens;

(3) Establish an emergency medical healthcare facilities board, hereinafter called "emergency medical services board" or "EMS board", under the Public Facilities Boards Act, § 14-137-101 et seq., and exercise all the powers conferred in this chapter and the power conferred under the Public Facilities Boards Act, § 14-137-101 et seq., either alone or in conjunction with the EMS board;

(4) Provide emergency medical services to its residents and to the residents of the county, surrounding counties, and municipalities within those counties, but only if the governing bodies of the counties and municipalities request and authorize the service under § 14-14-101, §§ 14-14-103 — 14-14-110, or the Interlocal Cooperation Act, § 25-20-101 et seq.; and

(5) Regulate:

(A)(i) All intracity patient transports, all intercity patient transports, and all intracounty patient transports originating from within the regulating city.

(ii) However, this chapter does not restrict or allow:

(a) Local regulation of ambulances owned and operated by a licensed hospital for its own admitted patients, except as provided in subdivisions (a)(5)(B) and (a)(5)(D) of this section; or

(b) County regulation of transportation provided by a medical facility;

(B)(i) Patient transports, by the patient's choice of either the emergency medical service provided by the regulating city, regulating county, or the emergency medical service that is owned and operated by the licensed hospital for its own admitted patients, to the regulating city or regulating county originating from a medical facility outside the regulating city or cooperative governmental unit.

(ii) If the medical facility does not operate an emergency medical service and the patient has chosen to be transported by the medical facility, then the patient shall be transported by the emergency medical service provided by the city or county in which the medical facility is located;

(C) Patient transports originating from within the regulating city or county by emergency medical service providers with an existing special purpose license issued by the Department of Health on July 31, 2009; and

(D) Patient transports authorized by the regulating city's or county's franchised emergency medical service provider if the provider has entered into a mutual aid agreement with a third-party ambulance service, including without limitation a hospital-owned ambulance service to provide patient transports, and if the franchised emergency medical service provider cannot provide patient transports in a timely manner under the franchise agreement.

(b)(1) A city or county regulating ambulance companies that contracts with private ambulance companies under this chapter shall permit those companies to offer ambulance services outside its boundaries.

(2) A city or county regulating ambulance services, when the municipality or county owns or operates those ambulance services, shall provide ambulance services to those surrounding areas whose governing bodies request and authorize those ambulance services but only if mutually agreeable contracts can be reached to provide those ambulance services.

(3) All direct and indirect costs of extending those ambulance services shall be borne entirely by patient-user fees or subsidies provided by the patient, municipality, or county to whom those ambulance services are rendered.

(4) The city or county extending ambulance services beyond its boundaries is not required to subsidize or otherwise extend financial support to render those ambulance services.

(c) The city or county has the same authority to regulate nonemergency ambulance services.

History. Acts 1981 (1st Ex. Sess.), No. 23, § 3; A.S.A. 1947, § 19-5903; Acts 1989, No. 196, § 2; 2009, No. 689, § 4; 2009, No. 1448, § 1; 2013, No. 1218, § 2; 2017, No. 1122, § 4.

Amendments. The 2017 amendment inserted "and counties" in the introductory language of (a) and in (a)(2)(D); substituted "may" for "are authorized" in the introductory language of (a); deleted "as defined in this chapter" preceding "and emergency" in (a)(1)(A); added the introductory language of (a)(5); redesignated (a)(5)(A) as (a)(5)(A)(i) and (ii); added (a)(5)(A)(ii)*(b)*; inserted "regulating county" twice in (a)(5)(B)(i); inserted "or county" in (a)(5)(B)(ii), (a)(5)(C), (b)(1), (b)(2), and (c); inserted "or county's" in (a)(5)(D); rewrote (b)(4); and made stylistic changes.

CASE NOTES

Cited: City of Clinton v. Southern Paramedic Servs., 2012 Ark. 88, 387 S.W.3d 137 (2012).

14-266-106. Authority of EMS board.

(a)(1) In addition to the powers granted under the Public Facilities Boards Act, § 14-137-101 et seq., the EMS board, unless limited by the governing body of the city or county, has unlimited authority, by negotiation or by bidding, to own, acquire, lease, construct, contract, operate, manage, improve, extend, maintain, control, permit, license, supervise, and regulate emergency medical services, ambulances, ambulance companies, their related properties, facilities, equipment, personnel, and all aspects attendant to providing emergency medical services and ambulance operations in the city or county.

(2) The authority under subdivision (a)(1) of this section includes without limitation the right to employ, regulate, license, and remove personnel, assistants, and employees and to regulate and fix their compensation.

(b) The EMS board may also appoint an executive director who shall not be a member of the EMS board and who shall serve at the pleasure of the EMS board and receive such compensation as shall be fixed by the EMS board.

(c) The members of the EMS board shall receive no compensation but shall be entitled to reimbursement of expenses incurred in the performance of their duties.

History. Acts 1981 (1st Ex. Sess.), No. 23, § 5; A.S.A. 1947, § 19-5905; Acts 2017, No. 1122, § 5.

Amendments. The 2017 amendment redesignated (a) as (a)(1) and (a)(2); in (a)(1), inserted "or county" twice; in (a)(2), substituted "The authority under subdivision (a)(1) of this section includes without limitation" for "This may include, but not be limited to" and deleted "of whatsoever nature, kind, or character" following "employees"; and made stylistic changes.

14-266-107. Franchise.

(a) Cities of the first class, cities of the second class, and counties, whether or not they establish an EMS board as provided in this chapter, have all the powers that an EMS board is granted in this chapter and may exercise those powers alone or in conjunction with an EMS board.

(b) The cities and counties may franchise, exclusively or otherwise, emergency medical services, ambulances, ambulance companies, their related properties, facilities, equipment, personnel, and all aspects attendant to providing emergency medical services and ambulance operations within the cities or counties, whether or not owned and operated by the cities or counties.

(c) If an exclusive franchise is issued, the process employed in the issuance shall provide periodic opportunity for competitive solicitation of ambulance franchise applications.

History. Acts 1981 (1st Ex. Sess.), No. 23, § 6; A.S.A. 1947, § 19-5906; Acts 1989, No. 196, § 3; 2017, No. 1122, § 6.

Amendments. The 2017 amendment inserted "and counties" in (a); in (b), substituted "The cities and counties may" for "The cities shall also have the right and power to", inserted "or counties", and substituted "cities or counties" for "city" at the end; and made stylistic changes.

CHAPTER 268

FLOOD LOSS PREVENTION

CASE NOTES

Cited: Hurst v. Holland, 347 Ark. 235, 61 S.W.3d 180 (2001).

14-268-102. Definitions.

As used in this chapter:

(1) "Commission" means the Arkansas Natural Resources Commission;

(2) "Floodplain administrator" means the person designated by a city, town, or county to administer and implement this chapter and other federal and state laws and local ordinances and regulations relating to the management of flood-prone areas; and

(3) "Flood-prone areas" means areas that are subject to or are exposed to flooding and flood damage.

History. Acts 1969, No. 629, § 2; A.S.A. 1947, § 21-1902; Acts 2003, No. 745, § 1.

14-268-103. Penalty.

(a) Any person or corporation who violates any measure adopted under this chapter which prohibits the development of land by improvements that are exposed to flood damage or that are threatened by flood hazards may be fined not more than five hundred dollars ($500) for each offense.

(b) Each day during which a violation exists is a separate offense.

History. Acts 1969, No. 629, § 4; A.S.A. 1947, § 21-1904; Acts 2003, No. 745, § 2.

14-268-104. Authority to adopt measures.

CASE NOTES

Construction.

Trial court erred in granting a city summary judgment in homeowners' action alleging that the city violated state and federal regulations governing floodplain management in constructing a park near their homes because there was an issue of material fact regarding whether the city fully complied with standard engineering practice as required by City of Bryant,

Ark., Ordinance 95-31, and without such a finding, it could not be determined whether the park project was a nuisance pursuant to § 14-268-105; the homeowners presented facts that the city did not provide any type of hydrologic and hydraulic analyses prior to initiating the new construction of the park as required by Ordinance 95-31, and there was conflicting evidence as to whether the city was required to submit a conditional letter of map revision. Hall v. City of Bryant, 2010 Ark. App. 787, 379 S.W.3d 727 (2010).

14-268-105. Public nuisance — Injunction or abatement.

CASE NOTES

Analysis

Construction.
Remedies.

Construction.

City's construction of a sewage treatment at a site regulated by the ordinances of the neighboring town constituted a public nuisance as a matter of law, as defined in this section, and the city's power of eminent domain argument was waived. City of Dover v. City of Russellville, 363 Ark. 458, 215 S.W.3d 623 (2005).

Trial court erred in granting a city summary judgment in homeowners' action alleging that the city violated state and federal regulations governing floodplain management in constructing a park near their homes because there was an issue of material fact regarding whether the city fully complied with standard engineering practice as required by City of Bryant, Ark., Ordinance 95-31, and without such a finding, it could not be determined whether the park project was a nuisance pursuant to this section; the homeowners presented facts that the city did not provide any type of hydrologic and hydraulic analyses prior to initiating the new construction of the park as required by Ordinance 95-31, and there was conflicting evidence as to whether the city was required to submit a conditional letter of map revision. Hall v. City of Bryant, 2010 Ark. App. 787, 379 S.W.3d 727 (2010).

Remedies.

Aggrieved party was not required to exhaust his administrative remedies prior to seeking injunctive relief; a party was permitted to enjoin a public nuisance, without directing that any other steps be taken prior to requesting such relief. Hurst v. Holland, 347 Ark. 235, 61 S.W.3d 180 (2001).

Based on the plain language of this section, homeowners' lack of proof of damages was not dispositive to their claim for injunctive relief based on nuisance against a city; the statute does not require that the citizen present proof of damages or irreparable harm in order to obtain injunctive relief. Hall v. City of Bryant, 2010 Ark. App. 787, 379 S.W.3d 727 (2010).

While this section does not specifically require a showing of harm before an injunction will issue, the fact that harm is shown does not automatically mandate the issuance of an injunction because the plain language of this section gives the circuit court wide discretion as to whether the public nuisance will be enjoined. From the testimony, the circuit court could have determined that the flooding of appellants' homes was not the result of the county's construction of the road in violation of this section, and the circuit court did not abuse its discretion in denying appellants' request for an injunction. Bettger v. Lonoke County, 2015 Ark. App. 366, 465 S.W.3d 438 (2015).

14-268-106. Floodplain administrator.

(a) Each county, city, or town ordinance adopted under this chapter shall designate a person to serve as the floodplain administrator to administer and implement the ordinance and any local codes and regulations relating to the management of flood-prone areas.

(b) Beginning July 1, 2004, each floodplain administrator shall become accredited by the Arkansas Natural Resources Commission under the commission's authority regarding flood control under §§ 15-24-102 and 15-24-109.

History. Acts 2003, No. 745, § 3.

CHAPTER 269

PARKS AND RECREATIONAL FACILITIES

SUBCHAPTER.
3. Operation and Management of Parks and Recreation Programs.

Subchapter 1 — Acquisition, Construction, and Maintenance of Recreational Facilities

14-269-103. General authority — Agreements with federal agencies — Condemnation proceedings.

CASE NOTES

Analysis

Appeal.
Condemnation Proceedings.

Appeal.

In an eminent domain case in which an order of immediate possession was granted, because the issue of just compensation remained to be determined, the order granting immediate possession was not a final, appealable order. The construction of a bicycle trail would not render it impossible to restore his property to its previous condition. Thomas v. City of Fayetteville, 2012 Ark. 120 (2012).

Condemnation Proceedings.

City was authorized to enter into a lease agreement with an individual, firm, or corporation to operate a property dedicated to public use and on which the lessee was planning to put a presidential library, park, and complex, as such uses were "necessary or desirable" under this section. Pfeifer v. City of Little Rock, 346 Ark. 449, 57 S.W.3d 714 (2001).

City was authorized to institute condemnation proceedings to obtain land for public use pursuant to subsection (d)(1) as negotiation with the property owner to acquire the necessary land on which would be built a presidential library, park, and complex was not successful. Pfeifer v. City of Little Rock, 346 Ark. 449, 57 S.W.3d 714 (2001).

Subchapter 3 — Operation and Management of Parks and Recreation Programs

SECTION.
14-269-302. Commission — Creation — Members.

14-269-302. Commission — Creation — Members.

(a)(1)(A) A city of the first class or city of the second class desiring to avail itself of the benefits of this subchapter, by a majority vote of the

elected and qualified members of the city council, may enact an ordinance creating a parks and recreation commission to be composed of no fewer than five (5) nor more than fifteen (15) citizens who are qualified electors of the municipality or the county in which the municipality is situated and, by affirmative vote of three-fourths (¾) of the elected and qualified members of the city council, may repeal the ordinance creating the commission.

(B) Upon a finding and ordinance that there are no qualified electors living within the city limits, a city of the first class or city of the second class may allow qualified electors of the county in which the municipality is situated to serve as members of the commission.

(2) The city council of any city of the first class or city of the second class may increase the membership of its parks and recreation commission to no more than fifteen (15) members under subsection (e) of this section if the city council determines that an enlarged commission could better serve the city's parks and recreation program.

(b)(1)(A) The commissioners:

(i) Shall be appointed by the mayor;

(ii) Shall be confirmed by a majority vote of the duly elected and qualified members of the city council; and

(iii) Shall hold office for a term of five (5) years.

(B)(i) However, the first commissioners to be appointed and confirmed shall serve for terms of one (1) year, two (2) years, three (3) years, four (4) years, and five (5) years, respectively, to be designated by the mayor and city council.

(ii) Thereafter, upon the expiration of their respective terms, commissioners appointed by the mayor and approved by a majority vote of the city council shall each be appointed for a term of five (5) years.

(2) The commissioners may be reappointed.

(c)(1) In the event of a vacancy occurring on the commission, it shall be filled by appointment by the mayor, subject to the approval of a majority vote of the duly elected and qualified members of the city council.

(2) A vacancy shall be filled for the remainder of the term.

(d) Each commissioner shall file the oath required of public officials in the State of Arkansas.

(e)(1) In the event the city council of any city votes to increase the membership of its parks and recreation commission under subdivision (a)(2) of this section, then the additional members of the commission shall be appointed in the manner provided in subsection (b) of this section and shall serve terms as provided in subdivision (e)(4) of this section.

(2) Their successors shall be appointed for five-year terms.

(3) The members shall qualify in the same manner as provided in subsection (a) of this section for other commission members, and vacancies in either of the additional member positions shall be filled in the manner provided in subsection (c) of this section.

(4) Upon increasing the number of members of the commission, the existing and additional commissioners shall serve initial terms as follows:

(A) For commissions of six (6) members, the initial terms shall be:

(i) One (1) member with a term of one (1) year;

(ii) One (1) member with a term of two (2) years;

(iii) One (1) member with a term of three (3) years;

(iv) One (1) member with a term of four (4) years; and

(v) Two (2) members with terms of five (5) years;

(B) For commissions of seven (7) members, the initial terms shall be:

(i) One (1) member with a term of one (1) year;

(ii) One (1) member with a term of two (2) years;

(iii) One member with a term of three (3) years;

(iv) Two (2) members with terms of four (4) years; and

(v) Two (2) members with terms of five (5) years;

(C) For commissions of eight (8) members, the initial terms shall be:

(i) One (1) member with a term of one (1) year;

(ii) One (1) member with a term of two (2) years;

(iii) Two (2) members with terms of three (3) years;

(iv) Two (2) members with terms of four (4) years; and

(v) Two (2) members with terms of five (5) years;

(D) For commissions of nine (9) members, the initial terms shall be:

(i) One (1) member with a term of (1) year;

(ii) Two (2) members with terms of two (2) years;

(iii) Two (2) members with terms of three (3) years;

(iv) Two (2) members with terms of four (4) years; and

(v) Two (2) members with terms of five (5) years;

(E) For commissions of ten (10) members, the initial terms shall be:

(i) Two (2) members with terms of one (1) year;

(ii) Two (2) members with terms of two (2) years;

(iii) Two (2) members with terms of three (3) years;

(iv) Two (2) members with terms of four (4) years; and

(v) Two (2) members with terms of five (5) years;

(F) For commissions of eleven (11) members, the initial terms shall be:

(i) Two (2) members with terms of one (1) year;

(ii) Two (2) members with terms of two (2) years;

(iii) Two (2) members with terms of (3) years;

(iv) Two (2) members with terms of (4) years; and

(v) Three (3) members with terms of five (5) years;

(G) For commissions of twelve (12) members, the initial terms shall be:

(i) Two (2) members with terms of one (1) year;

(ii) Two (2) members with terms of two (2) years;

(iii) Two (2) members with terms of three (3) years;
(iv) Three (3) members with terms of four (4) years; and
(v) Three (3) members with terms of five (5) years;

(H) For commissions of thirteen (13) members, the initial terms shall be:

(i) Two (2) members with terms of one (1) year;
(ii) Two (2) members with terms of two (2) years;
(iii) Three (3) members with terms of three (3) years;
(iv) Three (3) members with terms of four (4) years; and
(v) Three (3) members with terms of five (5) years;

(I) For commissions of fourteen (14) members, the initial terms shall be:

(i) Two (2) members with terms of (1) year;
(ii) Three (3) members with terms of two (2) years;
(iii) Three (3) members with terms of three (3) years;
(iv) Three (3) members with terms of four (4) years; and
(v) Three (3) members with terms of five (5) years; and

(J) For commissions of fifteen (15) members, the initial terms shall be:

(i) Three (3) members with terms of one (1) year;
(ii) Three (3) members with terms of two (2) years;
(iii) Three (3) members with terms of three (3) years;
(iv) Three (3) members with terms of four (4) years; and
(v) Three (3) members with terms of five (5) years.

(f) Upon the appointment of the commissioners as provided in this section, the mayor and city council shall execute such instruments and enact such measures as may be necessary to vest complete charge of the municipally owned parks and recreation facilities in the commissioners.

(g) Any commissioner appointed by the provisions of this section may be removed for cause upon a two-thirds vote of the elected and qualified members of the city council.

History. Acts 1949, No. 471, §§ 2-4, 13; 1979, No. 102, §§ 1, 2; A.S.A. 1947, §§ 19-3619 — 19-3621, 19-3630; Acts 2003, No. 294, § 1; 2015, No. 261, § 1.

Amendments. The 2015 amendment, redesignated (a)(1) as (a)(1)(A); in (a)(1)(A), substituted "A" for "Any" and inserted "or the county in which the municipality is situated"; and added (a)(1)(B).

CHAPTER 270

RURAL COMMUNITY PROJECTS

Subchapter 2 — Outdoor Recreational Facilities

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

14-270-202. Elements of grants program.

There is hereby established the FUN Parks Grants Program to be administered by the Department of Parks, Heritage, and Tourism. The purpose of the FUN Parks Grants Program is to provide basic outdoor recreation facilities including baseball and softball fields, basketball courts, picnic tables and pavilions, and playground equipment to residents of small Arkansas communities. The goal of this program is to build two hundred (200) new outdoor parks statewide in communities of two thousand five hundred (2,500) or less as established by the 1990 census. Up to fifty (50) new FUN parks may be constructed each year in each of the next four (4) years at a cost not to exceed ten thousand dollars ($10,000) for each FUN park.

History. Acts 1991, No. 271, § 2; 1991, No. 306, § 2; 2019, No. 910, § 5622.

Amendments. The 2019 amendment substituted "Department of Parks, Heritage, and Tourism" for "Arkansas Department of Parks and Tourism" in the first sentence; and substituted "FUN Parks Grants Program" for "FUN Parks Program" in the second sentence.

14-270-203. Authorization.

The Department of Parks, Heritage, and Tourism is herein authorized to promulgate procedures, rules, or guidelines necessary for the administration of the FUN Parks Grants Program.

History. Acts 1991, No. 271, § 3; 1991, No. 306, § 3; 2019, No. 315, § 1040; 2019, No. 910, § 5623.

Amendments. The 2019 amendment by No. 315 substituted "rules, or guidelines" for "rules, guidelines, or regulations".

The 2019 amendment by No. 910 substituted "Department of Parks, Heritage, and Tourism" for "Arkansas Department of Parks and Tourism".

CHAPTER 271

UNDERGROUND FACILITIES DAMAGE PREVENTION

Effective Dates. Acts 2007, No. 41, § 6[7]: Jan. 1, 2008.

14-271-102. Definitions.

As used in this chapter, unless the context otherwise requires:

(1) "Approximate location of underground facilities" means a strip of land at least three feet (3') wide but not wider than the width of the facility plus one and one-half feet (1½') on either side of the facility;

(2) "Damage" includes the substantial weakening of structural or lateral support of underground facilities, the penetration or destruction of any protective coating, housing, or other protective device of underground facilities, the partial or complete severance of an underground facility, and the rendering of any underground facility inaccessible;

(3) "Demolish" or "demolition" means any operation by which a structure or mass of material is wrecked, razed, rendered, moved, or removed by means of any powered tools, powered equipment, exclusive of transportation equipment, or discharge explosives;

(4) "Excavate" or "excavation" means to dig, compress, or remove earth, rock, or other materials in or on the ground by use of mechanized equipment, tools manipulated only by human or animal power, or blasting, including without limitation augering, boring, backfilling, drilling, grading, pile-driving, plowing in, pulling in, trenching, tunneling, and plowing;

(5) "Mechanized equipment" means equipment operated by means of mechanical power, including trenchers, bulldozers, power shovels, augers, backhoes, scrapers, drills, cable and pipe plows, and other equipment used for plowing in or pulling in cable or pipe;

(6) "Member operator" means any operator that is a member of the Arkansas One Call Center;

(7) "One Call Center" means a center operated by an organization which has as one of its purposes to receive notification of planned excavation and demolition in a specified area from excavators and to disseminate such notification of planned excavation or demolition to operators who are members of the center;

(8) "Operator" means any person that owns or operates an underground facility;

(9) "Person" means any individual, any corporation, partnership, association, improvement district, property owners' association, property developer, public agency, or any other entity organized under the laws of any state or any subdivision or instrumentality of a state, and any employee, agent, or legal representative thereof;

(10) "Preengineered project" means a public project wherein the public agency responsible for the project, as part of its engineering and contract procedures, holds a formal meeting prior to the commencement of any construction work on the project in which all persons determined by the public agency to have underground facilities located within the construction area of the project are invited to attend and given an opportunity to verify or inform the public agency of the location of their underground facilities, if any, within the construction area and wherein the location of all known underground facilities are located or noted on the engineering drawing and specifications for the project;

(11) "Public agency" means the state or any board, commission, or agency of the state and any city, town, county, subdivision thereof, or other governmental entity;

(12) "Right-of-way" means any area along which an underground facility is located;

(13)(A) "Underground facility" means any line, system, and appurtenance or facility that is:

(i) Located beneath the ground surface or beneath structures, streets, roads, alleys, sidewalks, or other public rights-of-way; and

(ii) Used for producing, storing, conveying, transmitting, or distributing communications, data, electricity, gas, heat, water, steam, chemicals, television or radio transmissions or signals, or sewage.

(B) "Underground facility" does not include:

(i) Privately owned service lines:

(a) Used solely for the purpose of transporting communications, data, electricity, gas, heat, water, steam, chemicals, television or radio transmissions or signals, or sewage for the operation of a residence or business; and

(b) Wholly located on or beneath private property; or

(ii) Residential or agricultural underground irrigation systems;

(14) "Underground pipeline facilities" means any underground pipeline facility used to transport natural gas or hazardous liquids. However, this definition does not apply to persons, including operator's master meters, whose primary activity does not include the production, transportation, or marketing of gas or hazardous liquids or to master-metered systems whose underground facilities do not cross property other than their own or are not located under public rights-of-way; and

(15) "Working day" means every day, except Saturday, Sunday, and national and legal state holidays.

History. Acts 1987, No. 600, § 2; 1989, No. 370, §§ 1, 5; 1991, No. 762, §§ 2, 3; 1995, No. 727, §§ 1, 6; 2007, No. 41, §§ 1-3; 2013, No. 1344, § 1.

14-271-103. Applicability.

(a) The Arkansas Public Service Commission shall, after public comment and hearing as provided below, promulgate rules providing for an Arkansas One Call Center to be established and maintained by all operators subject to the jurisdiction of the commission.

(b) The rules shall at a minimum be consistent with the requirements of any federal law relating to One Call Centers, and otherwise shall provide standards and guidelines for the organization and administration by operators of the Arkansas One Call Center consistent with the terms, purposes, and requirements of this chapter, provided, however, that nothing herein, nor in the rules to be promulgated by the commission, shall be construed to restrict, diminish, or otherwise affect the ratemaking authority and responsibility of the commission with respect to One Call System expenditures by utilities or with respect to any other matter.

History. Acts 1987, No. 600, § 13; 1989, No. 370, § 2; 2019, No. 315, § 1041.

Amendments. The 2019 amendment substituted "rules" for "regulations" in (a); and substituted "The rules" for "The regulations" at the beginning of (b).

14-271-104. Penalties — Civil remedies.

(a)(1) Except as provided in subdivision (a)(2) of this section, any person who violates any provisions of this chapter shall be subject to a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation.

(2) Operators of underground pipeline facilities and excavators shall, upon violation of any applicable requirements of 49 C.F.R. Part 198, Subpart C, or 49 U.S.C. § 60114(b), concerning marking facilities; 49 U.S.C. § 60114(d), concerning applicability to excavators; or 49 U.S.C. § 60118(a), concerning general waivers, as in effect on February 2013, unless excepted under § 14-271-109, and damage to an interstate or intrastate natural gas pipeline facility or an interstate or intrastate hazardous liquid pipeline facility, be subject to civil penalties in an amount not to exceed two (2) times the amount of property damage to the interstate or intrastate natural gas pipeline facility or an interstate or intrastate hazardous liquid pipeline facility up to a maximum of two hundred thousand dollars ($200,000) for each violation for each day that the violation persists, except that the maximum civil penalty shall not exceed two million dollars ($2,000,000) for any related series of violations.

(b)(1) Actions to recover the penalties provided for in this section shall be brought by the Attorney General, the county prosecutor, or the city attorney, at the request of any person, in the circuit court in the county in which the cause, or some part thereof, arose or in which the defendant has its principal place of business or resides.

(2) All penalties recovered in any such action shall be paid into the general fund of the state, county, or municipality that prosecutes the action.

(c) The Attorney General, the county prosecutor, or the city attorney shall, at the request of any person, bring an action in a court of competent jurisdiction to enjoin any violation of 49 C.F.R. Part 198, Subpart C, committed by operators of underground pipeline facilities and excavators.

(d) Nothing in this chapter shall be construed to modify or repeal existing laws pertaining to the tort liability of local governments and their employees.

(e) This chapter does not affect any civil remedies for personal injury or property damage, including underground facilities, except as otherwise specifically provided for in this chapter.

(f) This section shall not apply to:

(1) The State Highway Commission;

(2) The Arkansas Department of Transportation;

(3) An officer or employee of the commission or Arkansas Department of Transportation;

(4) A county judge; or

(5) A county road department.

History. Acts 1987, No. 600, § 12; 1991, No. 762, § 4; 1995, No. 727, § 2; 2013, No. 1344, §§ 2, 3; 2017, No. 260, § 12; 2017, No. 707, § 27.

A.C.R.C. Notes. Pursuant to Acts 2017, No. 260, § 13, the amendment of this section by Acts 2017, No. 260, § 12, is superseded by the amendment of this section by Acts 2017, No. 707, § 27.

Acts 2017, No. 260, § 13, provided: "CONSTRUCTION AND LEGISLATIVE INTENT. It is the intent of the General Assembly that:

"(1) The enactment and adoption of this act shall not expressly or impliedly repeal an act passed during the regular session of the Ninety-First General Assembly;

"(2) To the extent that a conflict exists between an act of the regular session of the Ninety-First General Assembly and this act:

"(A) The act of the regular session of the Ninety-First General Assembly shall be treated as a subsequent act passed by the General Assembly for the purpose of:

"(i) Giving the act of the regular session of the Ninety-First General Assembly its full force and effect; and

"(ii) Amending or repealing the appropriate parts of the Arkansas Code of 1987; and

"(B) Section 1-2-107 shall not apply; and

"(3) This act shall make only technical, not substantive, changes to the Arkansas Code of 1987."

Amendments. The 2017 amendment by No. 260 rewrote (f).

The 2017 amendment by No. 707 rewrote (f).

14-271-109. Notice to One Call Center — Exceptions.

(a) Compliance with notice requirements of § 14-271-112 is not required for:

(1) The moving of earth that is not on a right-of-way or within an easement of an operator by tools manipulated only by human or animal power;

(2) The moving of earth by an operator that is on a right-of-way or within an easement of the operator by tools only manipulated by human power and exclusively for the purposes of system maintenance and leak detection;

(3) Any agricultural purposes, including any form of cultivation for agricultural purposes, digging for postholes on private property, construction and maintenance of farm ponds, land clearing, or other normal agricultural purposes that are not on a right-of-way of an operator;

(4) The opening of a grave in a cemetery that is not on a right-of-way of an operator; or

(5) Routine road work and general maintenance as performed in the right-of-way by state or county maintenance departments, but excluding any work or maintenance involving any demolition or excavation.

(b)(1) Compliance with notice requirements of § 14-271-112 is not required of persons responsible for repair or restoration of service, or to ameliorate an imminent danger to life, health, property, or public safety.

(2) However, those persons shall give, as soon as practicable, oral notice of the emergency excavation or demolition to the One Call Center and request emergency assistance from the One Call Center in locating and providing immediate protection to its underground facilities.

(3) An imminent danger to life, health, property, or public safety exists whenever there is a substantial likelihood that loss of life, health, or property will result before the procedures under § 14-271-112 can be fully complied with.

History. Acts 1987, No. 600, §§ 3, 10; 1989, No. 370, § 4; 1991, No. 762, § 7; 1995, No. 727, § 5; 2007, No. 41, § 4; 2013, No. 1344, § 4.

14-271-110. Notifying operators of underground facilities — Identification of location.

(a)(1) Within four (4) working hours after receiving notification of intent to excavate or demolish, the One Call Center shall in turn notify all member operators of underground facilities in the affected area of the proposed activity.

(2)(A) Unless otherwise agreed to between the excavators and the operator, within two (2) working days after notification from the One Call Center, the operator shall identify the approximate location of the facilities by field-marking on the surface by paint, dye, stakes, or any other clearly visible marking which designates the horizontal course of the facilities.

(B) If the operator has no facilities in the area, the operator shall so inform the person proposing the activity, either by contacting that person or by leaving such information at the site.

(3) When an underground facility is being located, the operator shall furnish the excavator information which identifies the approximate center line, approximate or estimated depth, when known, and dimensions of the underground facility.

(4)(A) When excavating within the approximate location of an underground facility, the excavator shall uncover the facility using a method approved by the operator.

(B) No power-driven tools or equipment shall be used without the express approval of the operator.

(b) Subject to the provisions of § 14-271-112(b) governing the duration of a locate request, when projects are delayed or are lengthy in time and location, the operator and the excavator shall establish and maintain coordination regarding location, marking, and identification of the facilities until all excavation or demolition is completed.

History. Acts 1987, No. 600, § 9; 1995, No. 727, § 6; 2007, No. 41, § 5.

14-271-112. Notice of intent to excavate or demolish.

CASE NOTES

Damages.

Trial court properly rejected evidence offered by a phone company regarding what it would have cost to rent replacement lines while lines damaged by a contractor, who dug in an area without providing notice to the phone company as required by this section were repaired; evidence was irrelevant because loss of use damages were recoverable in an action for damage to personal property only in cases involving motor vehicles. Southwestern Bell Tel. Co. v. Harris Co., 353 Ark. 487, 109 S.W.3d 637 (2003).

14-271-113. Notice of damage required — Exception.

(a)(1) Except as provided by subsection (b) of this section, a person responsible for an excavation or demolition that results in damage to an underground facility shall:

(A) Immediately upon discovery of the damage, notify the One Call Center of the location and nature of the damage and current work status of the excavation or demolition; and

(B) Allow the operator reasonable time to accomplish necessary repairs before completing the excavation or demolition in the immediate area of the underground facility.

(2) An operator shall respond and examine the damage within two (2) business days of notification and shall complete repairs to the damaged facilities within a reasonable amount of time.

(b) Each person responsible for any excavation or demolition operation that results in damage to an underground facility permitting the escape of any flammable, toxic, or corrosive gas or liquid shall notify the operator and police and fire departments immediately upon discovery of the damage and take any other action reasonably necessary to protect persons and property and to minimize the hazards until arrival of the operator's personnel or police and fire departments.

History. Acts 1987, No. 600, § 11; 1995, No. 727, § 9; 2015, No. 908, § 1.

Amendments. The 2015 amendment redesignated former (a) as (a)(1); rewrote (a)(1)(A); inserted "underground" in (a)(1)(B); and added (a)(2).

CHAPTER 272

RURAL FIRE DEPARTMENTS

SUBCHAPTER.

Subchapter 1 — Rural Fire Departments Study Committee

SECTION.

14-272-101. [Expired.]

A.C.R.C. Notes. Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 127, provided: "Sections of the Arkansas Code amended by this act that expire on or before September 30, 2017, may be removed from the Arkansas Code by the Arkansas Code Revision Commission after their respective expiration date."

Publisher's Notes. This section, concerning the creation of the Rural Fire Departments Study Committee, expired by its own terms September 30, 2017. The section was derived from Acts 1991, No. 1032, § 1; 1993, No. 231, § 1; 1995, No. 489, § 1; 1997, No. 183, § 1; 1997, No. 385, § 2; 1997, No. 1264, § 1; 2001, No. 165, § 1; 2003, No. 198, § 1; 2015, No. 1032, § 1; 2015 (1st Ex. Sess.), No. 7, § 132; 2015 (1st Ex. Sess.), No. 8, § 132; 2016 (3rd Ex. Sess.), No. 2, § 28; 2016 (3rd Ex. Sess.), No. 3, § 28.

14-272-102. [Expired.]

A.C.R.C. Notes. Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 127, provided: "Sections of the Arkansas Code amended by this act that expire on or before September 30, 2017, may be removed from the Arkansas Code by the Arkansas Code Revision Commission after their respective expiration date."

Publisher's Notes. This section, concerning the members of the Rural Fire Departments Study Committee and their compensation, expired by its own terms September 30, 2017. The section was derived from Acts 1991, No. 1032, § 2; 1993, No. 231, § 2; 1997, No. 250, § 90; 1997, No. 1264, § 2; 1997, No. 1354, § 31; 2016 (3rd Ex. Sess.), No. 2, § 29; 2016 (3rd Ex. Sess.), No. 3, § 29.

14-272-103. [Expired.]

A.C.R.C. Notes. Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 127, provided: "Sections of the Arkansas Code amended by this act that expire on or before September 30, 2017, may be removed from the Arkansas Code by the Arkansas Code Revision Commission after their respective expiration date."

Publisher's Notes. This section, concerning a funding study of rural fire departments, expired by its own terms September 30, 2017. The section was derived from Acts 1991, No. 1032, § 3; 1997, No. 1264, § 3; 2015, No. 1032, § 2; 2016 (3rd Ex. Sess.), No. 2, § 30; 2016 (3rd Ex. Sess.), No. 3, § 30.

14-272-104. [Expired.]

A.C.R.C. Notes. Identical Acts 2016 (3rd Ex. Sess.), Nos. 2 and 3, § 127, provided: "Sections of the Arkansas Code amended by this act that expire on or before September 30, 2017, may be removed from the Arkansas Code by the Arkansas Code Revision Commission after their respective expiration date."

Publisher's Notes. This section, concerning biennial reports of the Rural Fire Departments Study Committee, expired by its own terms September 30, 2017. The section was derived from Acts 1993, No. 231, § 3; 1997, No. 183, § 2; 1997, No. 385, § 3; 1997, No. 1264, § 4; 2016 (3rd Ex. Sess.), No. 2, § 31; 2016 (3rd Ex. Sess.), No. 3, § 31.

Subchapter 2 — Study of Rural Fire Departments and Their ISO Ratings

SECTION.
14-272-201, 14-272-202. [Repealed.]

Effective Dates. Acts 2003, No. 1473, § 74: July 1, 2003. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act includes technical corrects to Act 923 of 2003 which establishes the classification and compensation levels of state employees covered by the provisions of the Uniform Classification and Compensation Act; that Act 923 of 2003 will become effective on July 1, 2003; and that to avoid confusion this act must also effective on July 1, 2003. Therefore, an emergency is declared to exist and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2003."

14-272-201, 14-272-202. [Repealed.]

Publisher's Notes. This subchapter, concerning the study of rural fire departments and their ISO ratings, was repealed by Acts 2003, No. 1473, § 30. The subchapter was derived from the following sources:

14-272-201. Acts 1999, No. 1507, § 1.
14-272-202. Acts 1999, No. 1507, § 2.

Subchapter 3 — Fire Department Services Agreements

SECTION.
14-272-301. Definitions.
14-272-302. Services agreements, authority, pledge, and assignment.
14-272-303. Firefighting services entitlement.
14-272-304. Payment of service availability fees.

A.C.R.C. Notes. Acts 2001, No. 1725, § 1, provided: "Legislative intent.

"(a) The General Assembly of the State of Arkansas does hereby recognize that: (1) Rural fire departments and other firefighting organizations and entities across the State of Arkansas do not possess proper and adequate firefighting equipment necessary to protect the health, safety and welfare of the citizens of the State of Arkansas; and (2) The State of Arkansas has no mechanism pursuant to which rural fire departments and other firefighting organizations and entities can

generate reliable reoccurring revenue that can be used to fund the purchase of necessary firefighting equipment; and (3) The absence of necessary firefighting equipment has resulted in the loss of life, the loss of property and the assessment of excessive insurance ratings and premium costs that burden residents of rural portions of the State of Arkansas.

"(b) In remedying the foregoing, it is the intent of the General Assembly to provide a means by which volunteer, not-for-profit and other fire departments can develop a reoccurring revenue source which can be pledged to lenders and third parties as security for the repayment of loan proceeds used by fire departments to acquire fire trucks, equipment and related appurtenances."

Acts 2001, No. 1725, § 6, provided: "Provisions supplemental. The provisions of this act supersede all other provisions of the Arkansas Code which are in express contradiction hereof. To the extent that no express contradictions exist, then the powers and authority granted by this act supplement all other powers and authority otherwise granted to fire departments under the laws of the State of Arkansas."

14-272-301. Definitions.

As used in this subchapter, unless the context clearly expresses otherwise:

(1) "Beneficiaries" means those persons or entities who have executed services agreements and who have paid and remain current in the payment of services availability fees to a fire department or fire departments that are recognized as providing firefighting services to the beneficiaries' property;

(2) "Fire department" means any fire protection district, improvement district, subordinate service district, other governmental entity or volunteer, not-for-profit, rural, or other organization, or entity of any nature that is involved in the provision of firefighting services;

(3) "Firefighting equipment" means all equipment, vehicles, improvements, and other real and personal property of every nature that might be used by a fire department in connection with the supplying of firefighting services, specifically including, without limitation, all fire trucks, lines, hoses, pumps, ladders, fire houses, office facilities, storage facilities, and other improvements of every nature;

(4) "Firefighting services" means the provision of all services of whatever nature which might be utilized in connection with the extinguishing of fires and the preservation of life and real and personal property;

(5) "Lenders" means those parties who extend funds or credit to fire departments for the purpose of acquiring, upgrading, leasing, accessing, or otherwise gaining the use and enjoyment of firefighting equipment, specifically including, without limitation, banks, savings associations, commercial lenders, indenture trustees, other lenders, or other parties of whatever nature who extend credit or financing to others;

(6) "Nonbeneficiaries" means those persons or entities who have not executed a services agreement or who have not paid or are not current in the payment of services availability fees to a fire department or fire departments recognized as being capable of providing firefighting services to the property of the nonbeneficiaries;

(7) "Services agreement" means a written agreement between a fire department and a beneficiary which shall address the following:

(A) That period of time during which the services agreement shall be effective;

(B) Provisions for the renewal of the services agreement for successive terms;

(C) The dollar amount of that services availability fee which the beneficiary shall pay annually to the fire department in consideration for the provision by the fire department to the beneficiary of firefighting services, along with any provisions that the fire department may specify which allow for the installment payment of the annual services availability fee;

(D) The manner in which the fire department might increase the services availability fee during the term of the services agreement;

(E) An explanation of the nature and extent of the firefighting services which are offered by the fire department; and

(F) Such other information as the fire department might specify and determine from time to time; and

(8) "Services availability fee" means the annual fee that is charged by fire departments to beneficiaries in consideration for the provision of firefighting services, with it being understood that the fire department may set varying services availability fees dependent upon the square footage of real property improvements, property type and usage, or other criteria identified by the fire department.

History. Acts 2001, No. 1725, § 2.

RESEARCH REFERENCES

U. Ark. Little Rock L. Rev. Survey of Legislation, 2001 Arkansas General Assembly, Regulated Industries, 24 U. Ark. Little Rock L. Rev. 595.

14-272-302. Services agreements, authority, pledge, and assignment.

(a) Any fire department may enter into services agreements with its beneficiaries.

(b)(1) Fire departments are authorized and empowered to enter into loans, lease-purchase agreements, and other extensions of credit from lenders and are empowered to pledge and assign services agreements to lenders in order to collateralize and secure repayment of loans, lease-purchase agreements, and other extensions of credit that might be advanced by lenders to fire departments for the purpose of acquiring, improving, accessing, or otherwise gaining the use of fire equipment.

(2)(A) Fire departments may additionally grant to lenders all mortgages, security interests, and other liens to secure and collateralize repayment of credit extended by lenders to fire departments.

(B) Notwithstanding any other applicable statute, rule, or regulation, the pledging and collateral assignment of services agreements, the encumbering of all other fire department assets, and the execution of all other debt-evidencing and debt-securing documents shall

occur by means of a resolution which is duly adopted by the governing board or body of the fire department.

History. Acts 2001, No. 1725, § 3.

14-272-303. Firefighting services entitlement.

(a) Beneficiaries shall be entitled to receive all firefighting services specified in the services agreement.

(b)(1) Should a fire department provide firefighting services to a nonbeneficiary, then the nonbeneficiary shall pay to the fire department a sum not to exceed five thousand dollars ($5,000) as consideration for the provision of firefighting services, with its being understood that the exact amount of the sum shall be specified by written resolution of the fire department in the services agreement.

(2) If any nonbeneficiary owing such a debt to a fire department fails to pay the debt in full within thirty (30) days after receipt of a written request for payment delivered by certified mail from the fire department, the fire department may initiate litigation against that nonbeneficiary to collect the amount owed to the fire department.

History. Acts 2001, No. 1725, § 4.

14-272-304. Payment of service availability fees.

(a) A fire department shall adopt written procedures pursuant to which the department's service availability fees shall be paid.

(b) If not paid within thirty (30) days after a due date, then a fire department shall have the right to initiate collection litigation against a delinquent beneficiary and shall have the right to receive a judgment in the amount of the delinquent service availability fee, plus all reasonable costs and fees.

(c) A fire department shall have the right to contract with third parties for the provision of accounting, invoicing, servicing, and related and unrelated services associated with the assessment, collection, and administration of service availability fees.

History. Acts 2001, No. 1725, § 5.

SUBTITLE 17. PUBLIC HEALTH AND WELFARE IMPROVEMENT DISTRICTS

CHAPTER 282

AMBULANCE SERVICE IMPROVEMENT DISTRICTS

SECTION.

14-282-101. Purpose.

It is the purpose and intent of this chapter to:

(1) Authorize the establishment and prescribe the procedure for the establishment of improvement districts for the purpose of providing ambulance services to residents of the districts;

(2) Prescribe the procedure for assessing the property in the ambulance service improvement district to finance the services; and

(3) Support emergency medical services and ambulance operations that are necessary to protect the health, safety, and welfare of the residents of the ambulance service improvement district.

History. Acts 1975 (Extended Sess. 1976), No. 1221, § 1; A.S.A. 1947, § 20-2001; reen. Acts 1987, No. 1011, § 1; 2013, No. 1172, § 1.

14-282-102. Petition for improvement district.

(a) Upon the petition of a majority in value and area of the owners of real property in any designated area, it shall be the duty of the county court to lay off into an improvement district the territory described in the petition and to name three (3) or five (5) commissioners of the district.

(b) The purpose of the district shall be for the acquiring of appropriate vehicles and equipment and the maintaining and operating of ambulance services for the use and benefit of the property holders within the district, and it is realized that the ambulance services would be a benefit to all the real property located in the district.

(c) The petition for, and the court order creating, the district shall designate the maximum amount that may be expended for vehicles, equipment, personal services, and other expenses of providing ambulance services in the district during any one (1) year.

(d) Any number of identical petitions may be circulated. Identical petitions with identical names may be filed at any time until the county court acts.

(e)(1)(A) An ambulance service district that is composed of an area within a county as established by the quorum court of the county may be created by ordinance of the quorum court. The ordinance shall designate the area to be served. However, in no event shall the area include less than a whole precinct and all precincts must be contiguous. The ordinance shall also set forth the method the ambulance service district shall assess the persons residing therein or the property owners having property located therein.

(B) An assessment of up to five (5) mills may be levied by the quorum court in the ambulance service district area, provided that the assessment is approved by at least a majority of the qualified electors voting on the issue at an election called for that purpose.

(C) The quorum court shall establish the date of the election which may be the same date as the general election, and only the qualifying electors residing within the boundaries of the district shall be entitled to vote at such election. The cost of the election shall be borne by the county.

(2) The ordinance shall further specify that the matter shall be referred to the electors of the affected area not less than sixty (60) days and not more than ninety (90) days after the passage of the ordinance and before any taxes are levied, assessed, or collected.

(3) In the event the referred ordinance is approved, it shall be in full force and effect upon certification of the election results by the county election commission. An ambulance service district created by this procedure shall be exempt from the assessment procedures set out in this chapter. The taxes collected pursuant to the ordinance shall be administered by the county as an enterprise fund, but shall be levied and collected as county taxes.

(4) The provisions of this subsection shall not apply to existing nonprofit volunteer ambulance services that provide ambulance and paramedic services in a general but undefined area of the state and which have been in existence for more than five (5) years.

History. Acts 1975 (Extended Sess. 1976), No. 1221, §§ 2, 3; A.S.A. 1947, §§ 20-2002, 20-2003; reen. Acts 1987, No. 1011, §§ 2, 3; Acts 1989, No. 498, § 1; 1991, No. 457, § 1; 1991, No. 922, § 21; 2013, No. 1172, § 2.

CASE NOTES

Taxation.

The intent of the legislature in adopting an alternative means of forming an ambulance service district by the vote of all eligible voters in the district, as prescribed by subsection (e), allows for the imposition of taxes upon both real and personal property. W. Carroll County Ambulance Dist. v. Johnson, 345 Ark. 95, 44 S.W.3d 284 (2001).

14-282-104. Hearing and appeal — Appointment of board of commissioners — Purpose of petition.

(a) On the day named in the notice, it shall be the duty of the county court to meet and to hear the petition and to determine whether those signing the petition constitute the majority in value and area.

(b)(1) If the county court determines that a majority in value and area have petitioned for the establishment of the district, it shall enter its judgment laying off the district as defined in the petition and appointing the commissioners who are resident property holders in the district, all of whom shall be citizens of integrity and good business ability.

(2) If it finds that a majority has not signed the petition, it shall enter its order denying it.

(c)(1) The commissioners shall serve without compensation and shall be appointed to serve for terms of one (1), two (2), and three (3) years,

respectively, and for five-member commissions, terms of one (1), two (2), three (3), four (4), and five (5) years.

(2) The length of the term of each commissioner shall be stated in the order of the county court making the appointment.

(3) As the terms of the commissioners expire, the county court shall appoint successors to hold office for a term of three (3) years.

(4) The county court may reappoint a commissioner whose term is expiring.

(5) In case of vacancy on the board of commissioners after the commissioners have organized, the county court shall appoint some resident property holder as his or her successor, who shall qualify in like manner and within a like time.

(6) The commissioners shall serve until their successors are appointed and qualified.

(d) Any petitioner or any opponents of the petition may appeal from the judgment of the county court creating or refusing to create the district, but the appeal must be taken and perfected within thirty (30) days. If no appeal is taken within that time, the judgment creating the district shall be final and conclusive upon all persons.

(e) The commissioners are authorized to acquire such vehicles, equipment, and other facilities and to employ such personnel as they deem necessary to provide adequate ambulance services to the residents of the district.

(f) The purpose for which the district is to be formed shall be stated in the petition, and the judgment establishing the district shall give it a name which shall be descriptive of the purpose. The district shall also receive a number to prevent its being confused with other districts for similar purposes.

History. Acts 1975 (Extended Sess. 1976), No. 1221, §§ 2-4; A.S.A. 1947, §§ 20-2002 — 20-2004; reen. Acts 1987, No. 1011, §§ 2-4; 2013, No. 1172, § 3.

CHAPTER 283

MOSQUITO ABATEMENT DISTRICTS

SECTION.

Effective Dates. Acts 2009, No. 1480, § 117: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act makes various revisions to Arkansas election laws that are designed to improve the administration of elections and special elections and that these revisions should be implemented as soon as possible so that the citizens of this state may benefit from improved election procedures. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its

approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-283-101. Petition for special election.

(a) When petitions are filed with the county court of any county containing the signatures of ten percent (10%) or more of the qualified electors of all or any defined part of any county or all or any defined part of any city, as determined by the number of votes cast by the qualified electors of the county, city, or designated portion thereof, for all candidates for Governor at the last preceding general election, requesting the establishment of a mosquito abatement district in the county or a designated portion of the county or in the city or designated portion of the city and requesting that assessed benefits be made on the property located in the district to finance the operation of the district, the county court shall call a special election in accordance with § 7-11-201 et seq. in the county, city, or designated area of the city to determine whether a mosquito abatement district shall be established for the area.

(b) Petitions filed pursuant to subsection (a) of this section shall specifically define the area proposed to be included in a mosquito abatement district and shall specify the maximum assessed benefits or taxes which may be levied against property within the district for the support of the district. In no event shall the assessed benefits in any district exceed an amount equal to one percent (1%) of the assessed valuation of real property in the district.

(c) The quorum court of the county may on its own motion enact an ordinance directing the county court to call a special election in accordance with § 7-11-201 et seq. in the county, city, or designated area of the city to determine whether a mosquito abatement district shall be established for the area.

History. Acts 1979, No. 530, §§ 1, 2; A.S.A. 1947, §§ 82-1201, 82-1202; Acts 1989, No. 661, § 1; 2007, No. 1049, § 73; 2009, No. 1480, § 92.

14-283-102. Procedures for special elections.

(a) The special election called by the county court to submit the question of the establishment and financing of a mosquito abatement district to the electors of the proposed district shall be held in accordance with § 7-11-201 et seq. within ninety (90) days after the proclamation calling the election.

(b) At the election, the question of establishing and financing the district shall be placed on the ballot in substantially the following form:

"FOR the establishment of a mosquito abatement district in .... (county), ... (city), ... (designated area) and the establishment of assessed benefits on real property in the district in an amount not to

exceed ten percent (10%) of the assessed valuation of real property in the district, to finance the district ..... ☐

AGAINST the establishment of a mosquito abatement district in .... (county), ... (city), ... (designated area) and the establishment of assessed benefits on real property in the district in an amount not to exceed ten percent (10%) of the assessed valuation of real property in the district to finance the district ..... ☐"

History.
Acts 1979, No. 530, § 3; A.S.A. 1947, § 82-1203; Acts 2005, No. 2145, § 52; 2007, No. 1049, § 74; 2009, No. 1480, § 93.

CHAPTER 284

FIRE PROTECTION DISTRICTS

SUBCHAPTER.
1. General Provisions.
2. Fire Protection Districts Outside of Cities and Towns.
3. Rural Fire Protection Service.
4. Insurance Premium Taxes.

A.C.R.C. Notes. References to "this chapter" in §§ 14-284-101 to 14-284-124 and subchapters 2 and 3 may not apply to § 14-284-125 which was enacted subsequently.

Subchapter 1 — General Provisions

14-284-109. Assessment — Notice and hearing.

(a) The assessment shall be filed with the county clerk of the county, and the secretary of the board shall give notice of its filing by publication one (1) time a week for two (2) weeks in a newspaper published and having a bona fide circulation in the county. This notice may be in the following form:

"Notice is hereby given that the assessment of annual benefits of ..... District Number ..... has been filed in the office of the County Clerk of ..... County, where it is open for inspection. All persons wishing to be heard on said assessment will be heard by the assessors of said district in the office of the county clerk between the hours of 1 P.M. and 4 P.M., at ....., on the ..... day of ....., 20...."

(b) On the day named by the notice, it shall be the duty of the assessors to meet at the place named as a board of assessors and to hear

all complaints against the assessment and to equalize and adjust the assessment. Their determination shall be final unless suit is brought in the circuit court within thirty (30) days to review it. If the board is unable to hear all complaints between the hours designated, they shall adjourn over from day to day until all parties have been heard.

(c)(1) However, in cities of the first class that have two (2) or more full-time volunteer fire protection districts, the assessment is not final until reviewed by the governing body of the city and a resolution is passed that states the assessments have been reviewed.

(2) The city's governing body may return the assessments to the assessors with a request for further review of the assessments by the assessors.

History. Acts 1939, No. 183, § 5; A.S.A. 1947, § 20-905; Acts 2003, No. 1168, § 1.

14-284-116. Awarding of contracts.

(a)(1) All contractors shall be required to give bond for the faithful performance of contracts as may be awarded them, with good and sufficient sureties in an amount to be fixed by the board of commissioners.

(2) The board shall not remit or excuse the:

(A) Penalty or forfeiture of the bond; or

(B) Breaches of the bond.

(b)(1) The board may appoint all necessary agents for carrying on the work and may fix their pay.

(2) The board shall pay a reasonable fee for legal services in organizing the district.

(c)(1) The board may sell all unnecessary material and implements that may be on hand and which may not be necessary for the completion of the improvement under way or for its operation.

(2) The board may in general make all contracts in the conduct of the affairs of the district as may best serve the public interest.

(d)(1) The board shall make no contract for the purchase of material or equipment costing ten thousand dollars ($10,000) or more except upon sealed bids opened in public.

(2) It shall be the duty of the secretary of the district to deliver a news item notice of intention to receive bids on certain equipment to the daily papers in the county and at least one (1) weekly paper.

History. Acts 1939, No. 183, § 11; A.S.A. 1947, § 20-911; Acts 1992 (1st Ex. Sess.), No. 10, § 2; 2005, No. 1224, § 1; 2007, No. 61, § 1.

14-284-117. Issuance of notes.

(a)(1) In order to acquire and maintain equipment and facilities and do the work of the fire protection district, the board of commissioners may issue the negotiable notes of the fire protection district signed by the members of the board and bearing a rate of interest not exceeding

the maximum rate of interest under § 4-57-104, and the board may pledge and mortgage a portion of the future annual benefit assessments as collected for payment.

(2) The petition for the creation of a fire protection district in the court order creating the fire protection district shall limit the total amount of notes that may be outstanding at any time, but the limits may be increased to the maximum prescribed in subdivision (a)(3) of this section.

(3) Subject to Arkansas Constitution, Amendment 78, if applicable, a fire protection district created under this subchapter shall not have notes outstanding at any one time:

(A) In excess of one hundred fifty thousand dollars ($150,000); or

(B) With an annual amortized amount that exceeds two (2) times the available cash reserves of the fire protection district.

(b) A fire protection district shall not issue bonds.

History. Acts 1939, No. 183, § 12; 1975, No. 979, § 1; A.S.A. 1947, § 20-912; Acts 2009, No. 399, § 1; 2019, No. 739, § 1.

Amendments. The 2019 amendment, in (a)(1), inserted "and maintain", "and facilities", and "of the fire protection district", and substituted "the maximum rate of interest under § 4-57-104" for "eight percent (8%) per annum"; in (a)(2), inserted "fire protection" twice and "subdivision (a)(3) of", and deleted "by a vote of a majority in value of the owners of real property in the district" following "this section"; rewrote (a)(3) and (b); and made stylistic changes.

14-284-124. Consolidation — Conditions and procedures.

(a)(1) Fire protection districts organized under this subchapter may consolidate if:

(A) The districts are geographically contiguous;

(B) Located in the same county; and

(C) No parcel of land in the new district will be more than three (3) miles from an existing fire station.

(2)(A) Consolidation of fire protection districts may be initiated upon the adoption of a resolution for consolidation by the board of directors of each district.

(B)(i) Upon adopting a resolution, each fire protection district shall hold a public hearing to be held in the district no sooner than twenty (20) days and no later than forty-five (45) days following the adoption of the resolution.

(ii)*(a)* Each district shall publish notice of its hearing in a newspaper of general circulation in the district once a week for two (2) consecutive weeks.

(b) The notice shall include the date, time, place, and purpose of the hearing.

(C)(i) Following the hearing, the commissioners of the district shall vote on a resolution finding that consolidation of the districts is in the best interest of the landowners of the district.

(ii) If the resolution is adopted by the board of commissioners, a copy of the resolution shall be sent to the county court in the county where the district is located.

(D)(i) Upon receiving a resolution from each district to be consolidated, the county court shall order the districts consolidated and shall name five (5) commissioners of the new district.

(ii) The new commissioners shall be appointed pursuant to § 14-284-105.

(b)(1) In cities of the first class that have two (2) or more full-time volunteer fire protection districts, the governing body of the city may refer to the voters in the fire protection districts the option to consolidate the districts.

(2) If a majority of the voters in each district vote in favor of consolidation, the districts shall consolidate as set forth in subsections (c)-(e) of this section.

(c)(1)(A) Any fire protection district which is formed by the consolidation of two (2) or more fire protection districts shall consolidate all assets held by it arising from any of the districts and shall also assume all liabilities of the districts.

(B) The assets may be used by the district for any purpose allowed by law, and the liabilities of the district may be paid with funds arising from any source.

(2) All the provisions, rights, securities, pledges, covenants, and limitations contained in the instrument creating a liability shall not be affected by the consolidation, but shall apply with the same force and effect as provided in the original creation of liability.

(d)(1) The existing assessments of each district consolidated into the new district shall remain in force until the end of the year in which the districts are consolidated.

(2) The commissioners shall order the assessors to reassess the annual benefits of the new district for the following year.

(e)(1) A consolidated fire protection district shall not have notes outstanding at any one (1) time in excess of one hundred thousand dollars ($100,000).

(2) The limitation of the excess outstanding note balance under subdivision (e)(1) of this section shall not apply to a consolidation of fire protection districts in a city of the first class that has two (2) or more full-time volunteer fire protection districts that have received funding from the city.

History. Acts 1995, No. 286, § 1; 2003, No. 1168, § 2; 2005, No. 438, § 1.

Subchapter 2 — Fire Protection Districts Outside of Cities and Towns

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Effective Dates. Acts 2009, No. 1480, § 117: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act makes various revisions to Arkansas election laws that are designed to improve the administration of elections and special elections and that these revisions should be implemented as soon as possible so that the citizens of this state may benefit from improved election procedures. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2015, No. 346, § 2: Mar. 6, 2015. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that there are millions of acres of privately-owned timberland in this state; that private timberland owners pay a forest fire protection tax to the Arkansas Forestry Commission to assist with the provision of fire services for those timberlands; and that this act is immediately necessary to limit the amount of fees, assessments, and taxes a timberland owner pays for the same services. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

Acts 2019, No. 1077, § 7: Apr. 17, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that fire protection districts provide critical public safety functions often not available from local governmental units; that funding sources for these fire protection districts are limited; and that this act is immediately necessary because without securing better funding, many fire protection districts will be unable to continue providing public safety functions at expected levels. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto".

14-284-201. Applicability.

(a)(1) Fire protection districts established under this subchapter shall cover only territory within the county, or within the defined district, outside the corporate limits of cities and towns.

(2)(A) However, if any city or town within the district does not have an organized or volunteer fire department and desires to be included within the fire protection district, upon the adoption of an ordinance by the governing body of the city or town, addressed to the county judge and quorum court, the area covered by the fire protection district shall be extended to provide fire protection within the city limits of the city or town by ordinance adopted by the quorum court.

(B) A limited fire protection district shall be established by county ordinance upon the petition adopted by ordinance addressed to the county judge and quorum court from a city or town fire department that serves an area outside the city or town for the purpose of contracting for the collection of assessments under this subchapter.

(b) A fire protection district under this subchapter shall be established for fire protection in rural areas for buildings, structures, and other man-made improvements and may provide other emergency services, including hazardous and toxic materials response, search and rescue services, emergency medical services, ambulance services, patient transport services, and other functions as may be assigned.

(c) This subchapter does not relieve the Arkansas Forestry Commission of responsibility for providing fire protection for forest lands.

History. Acts 1979, No. 35, § 3; A.S.A. 1947, § 20-925; Acts 1997, No. 1093, § 2; 2019, No. 1077, § 2.

Amendments. The 2019 amendment inserted designation (a)(2)(A); substituted "shall" for "may" in (a)(2)(A); added (a)(2)(B); redesignated (b) as (b) and (c); rewrote (b); in (c), substituted "This subchapter does not" for "Nothing in this subchapter shall be construed to"; and made stylistic changes.

14-284-203. Methods of establishment.

Fire protection districts may be established to serve all or any defined portion of any county in any of the following ways:

(1) By ten percent (10%) of the qualified electors in the proposed district's petitioning the quorum court to hold a public hearing and to form a district, and by the quorum court's adopting an ordinance calling for notice and a public hearing within the district;

(2) By the county court pursuant to an election of the qualified electors of the proposed district initiated, called, and conducted as provided in this subchapter; or

(3) By the county court pursuant to a resolution of a suburban improvement district, approved by unanimous vote of its board of commissioners, to convert to a fire protection district to be administered under this subchapter.

History. Acts 1979, No. 35, § 1; A.S.A. 1947, § 20-923; Acts 1997, No. 323, § 2; 2001, No. 1205, § 1.

14-284-204. Establishment by petition and adoption of ordinance.

(a)(1)(A) If petitions containing a description of the territory for a proposed fire protection district, along with an accurate map of the proposed fire protection district boundaries, and containing the signatures of ten percent (10%) or more of the qualified electors within the proposed fire protection district are filed with the county quorum court of a county in which the proposed fire protection district is to be located to request a public hearing and the establishment of a fire protection district in the county, then the county quorum court or quorum courts, if the proposed fire protection district is located in more than one (1) county, shall conduct a public hearing to determine the support for the proposed fire protection district.

(B)(i) A petition shall be certified by the quorum court within sixty (60) days of receipt of the petition under subdivision (a)(1)(A) of this section.

(ii) The quorum court shall respond in writing to the petitioners within the sixty-day period under subdivision (a)(1)(B)(i) of this section if there are issues or questions the quorum court would like addressed in the petition, but in no event shall the quorum court delay the sixty-day period under subdivision (a)(1)(B)(i) of this section.

(2)(A) The quorum court shall set the time for the hearing to be held not less than thirty (30) days nor more than sixty (60) days after the petitions are certified and shall set the place for the hearing to be held within the boundaries of the proposed fire protection district.

(B) When a time and place for the hearing are set, the quorum court shall publish notice of the hearing in a newspaper of general circulation in the county.

(3)(A) Before setting the initial hearing on the adoption of an ordinance to establish a fire protection district, petitions filed with the county quorum court shall be sent to the county clerk of the county where the proposed fire protection district is to be located.

(B) It shall be the duty of the county clerk or clerks, as the case may be, to determine the sufficiency of the signatures and to certify the sufficiency in writing to the quorum court.

(C) The petitions shall indicate the elector's name, address, and signature and shall contain a verification of the signatures pursuant to § 7-9-109.

(b)(1) After the petitions are certified and the initial public hearing held, the county quorum court shall adopt an ordinance to establish the fire protection district, to levy assessments on property or the landowners, or both, and to call for a public hearing on the ordinance.

(2) The ordinance shall set the time and place for a public hearing on the ordinance to be held within the boundaries of the proposed fire protection district.

(c)(1)(A) When an ordinance is adopted by the quorum court establishing a fire protection district, the quorum court shall publish notice

of the adoption of the ordinance in a newspaper of general circulation in the county.

(B) The notice shall include a copy of the ordinance and shall prescribe a time and place within the proposed district for a public hearing on the ordinance.

(2)(A) A public hearing shall be held at some large public facility within the boundaries of the proposed district at least sixty (60) days and not more than ninety (90) days after the date of publication of the notice.

(B) If at the hearing a majority of the qualified electors in the proposed district appear in person to oppose the establishment of the district or if petitions opposing the establishment of the district and containing the signatures of a majority of the qualified electors in the proposed district are filed at or before the public hearing, the ordinance creating the district shall be void.

(C)(i) If a majority of the qualified electors of the proposed district do not object to the establishment of the district in person or by petition within the time prescribed in this subsection, the ordinance shall be valid and the district shall be established.

(ii) The board of commissioners for the district shall be appointed and serve, and the levy of assessed benefits to support the district may be made, in the same manner as is provided in this subchapter for fire protection districts established pursuant to a vote of the electors.

(d)(1) A fire protection district established by ordinance of the quorum court without a vote of the electors of the district shall have no authority to issue bonds and to pledge assessed benefits of the district to secure bonds, unless the question of the issuance of bonds by the district is first submitted to, and approved by, a majority of the qualified electors of the district voting on the issue.

(2) The question of the issuance of bonds by a fire protection district established by ordinance of the quorum court may be submitted to the electors of the district at an election called by the county court either at the request of the board of commissioners of the district or upon petition signed by ten percent (10%) of the electors of the district as determined by the number of votes cast by the electors of the district for all candidates for Governor at the last preceding general election.

History. Acts 1979, No. 35, § 2; A.S.A. 1947, § 20-924; Acts 2001, No. 1205, § 2; 2019, No. 1077, § 3.

Amendments. The 2019 amendment added (a)(1)(B) and redesignated former (a)(1) as (a)(1)(A); substituted "to request" for "and requesting" in (a)(1)(A); substituted "shall" for "may" in (b)(1); and made stylistic changes.

14-284-205. Establishment by election.

(a) When petitions are filed with the county court of any county wherein the fire protection district to be established is located in a single county or if the fire protection district is to be located in more

than one (1) county and the petitions are filed with the county courts of all counties wherein the fire protection district is to be established, and the petitions contain the signatures of ten percent (10%) or more of the qualified electors within the proposed fire protection district boundaries, as determined by the number of votes cast by the qualified electors within the proposed fire protection district boundaries for all candidates for Governor at the last preceding general election, requesting the establishment of a fire protection district in the county or a designated portion thereof and requesting that assessments be made on the property or assessments be made on the landowners, or assessments be made both on the property and the landowners located in the district to finance the operation of the district, the county court, or county courts if the fire protection district is located in more than one (1) county, shall call a special election in accordance with § 7-11-201 et seq. within the proposed fire protection district to determine whether a fire protection district shall be established for the area.

(b)(1) The county court or county courts, if the proposed fire protection district is located in more than one (1) county, shall call a special election in accordance with § 7-11-201 et seq. to submit the question of the establishment and financing of a fire protection district to the electors of a proposed district.

(2) The special election shall be held within ninety (90) days after the filing of the petitions requesting the election.

(3) If the proposed fire protection district is located within more than one (1) county, the county courts shall set the date of the election on the same date and set the places of the election within the proposed fire protection district boundaries.

(4) At the election, the question of establishing and financing the district shall be placed on the ballot in substantially the following form: "FOR the establishment of a fire protection district in .....(county), ...(designated area), and the levy of assessed benefits on real property in the district to finance the district .....☐

AGAINST the establishment of a fire protection district in .....(county), ...(designated area), and the levy of assessed benefits on real property in the district to finance the district .....☐"

History. Acts 1979, No. 35, §§ 2, 5; A.S.A. 1947, §§ 20-924, 20-927; Acts 1995, No. 766, § 1; 2005, No. 2145, § 53; 2007, No. 1049, § 75; 2009, No. 1480, § 94.

14-284-206. Definition of area in petition.

(a) Petitions filed under § 14-284-203 shall specifically define the area proposed to be included in a fire protection district and shall specify the maximum assessed benefits that may be levied against property within the district for the support of the district.

(b) The maximum assessed benefits may be reassessed using the procedures under this subchapter.

History. Acts 1979, No. 35, § 4; A.S.A. 1947, § 20-926; Acts 2015, No. 1234, § 1.

Amendments. The 2015 amendment inserted designation (a); in (a), substituted "under" for "pursuant to" and "that may" for "which may"; and added (b).

14-284-208. Order for establishment — Board of commissioners — Appointment — Compensation.

(a)(1) If at an election a majority of the qualified electors voting on the question vote "FOR" the establishment of the proposed fire protection district and the levy of assessed benefits to support the district or if an ordinance of the quorum court establishing a district is sustained or if the board of commissioners of a suburban improvement district votes unanimously to convert to a fire protection district, the county court shall enter an order establishing the district as described in the petitions or ordinance and shall appoint five (5) qualified electors of the district as a board of commissioners for the district, unless it is otherwise provided for by law.

(2)(A) Two (2) members of the commission shall be appointed for terms of two (2) years and three (3) members of the commission shall be appointed for terms of three (3) years.

(B) All successor members shall be appointed by the county court for terms of three (3) years.

(C) All appointments shall be subject to confirmation by the quorum court of the county.

(b) The members of the boards of commissioners of fire protection districts formed after July 3, 1989, or converted from suburban improvement districts, under this subchapter shall be elected at a public meeting called by the county court. The commissioners shall be elected by the qualified electors residing within the district.

(c) Vacancies occurring on the board because of resignation, removal, or otherwise shall be filled by the county court for the unexpired term.

(d) The members of the board shall serve without compensation but shall be entitled to actual expenses incurred in attending meetings in an amount not to exceed fifty dollars ($50.00) per month for each member of the board as authorized by the quorum court of the county.

(e) Members of the board may be removed from office by the county court for good cause shown.

(f)(1) If the district includes territory from more than one (1) county, the board of commissioners shall be composed of seven (7) members.

(2) The members of the board of commissioners of multicounty fire protection districts formed after July 3, 1995, under this subchapter shall be residents of the fire protection district and elected at a public meeting as agreed upon by the county courts in order to establish the time of the meeting and the place of the meeting being within the district. The commissioners shall be elected by the qualified electors residing within the district.

(3) The members of the board of commissioners shall serve staggered terms.

(4) Vacancies occurring on the board due to resignation, removal, or otherwise shall be filled by the remaining board members for the unexpired term.

(5)(A)(i) Members of the board may be removed by a special election to be held within ninety (90) days after the presentation of a special election removal petition signed by ten percent (10%) of the assessed landowners or the assessed per parcel or per acre owners, with the removal of the board member to be determined by the majority votes of the votes cast in person by the assessed landowners or the assessed per parcel or per acre property owners.

(ii) Each assessed landowner or assessed parcel or acre property owner shall have one (1) vote per paid assessment.

(B) The election for the removal of board members shall be held at a meeting at a designated location within the fire protection district.

History. Acts 1979, No. 35, § 6; A.S.A. 1947, § 20-928; Acts 1989, No. 648, § 1; 1991, No. 350, §§ 1, 2; 1995, No. 766, § 2; 1997, No. 323, § 3; 2005, No. 2145, § 54; 2007, No. 1049, § 76; 2009, No. 765, § 1.

14-284-212. Preparation of plans — Assessors and assessments generally.

(a) As soon as is practical after its establishment, the board shall prepare plans for providing fire protection services and for acquiring the property and equipment necessary to carry out the purposes of the district.

(b) They shall thereupon appoint three (3) assessors to assess the annual benefits which will accrue to the real property within the district from the providing of fire protection services and shall fix their compensation. The assessors shall take an oath that they will well and truly assess all annual benefits that will accrue to the protected landowners of the district by the providing of fire protection services.

(c) The assessors shall thereupon proceed to assess the annual benefits to the lands within the district and shall inscribe in a book each tract of land and extend opposite the inscription of each tract of land the amount of annual benefits that will accrue each year to that land by reason of the services.

(d) The original assessment of benefits and any reassessment shall be advertised and equalized in the same manner as provided in this subchapter, and owners of all property whose assessment has been raised shall have the right to be heard and to appeal from the decision of the assessors, as hereinafter provided.

(e) The assessors shall place opposite each affected tract the name of the supposed owner as shown by the last county assessment, but a mistake in the name shall not void the assessment, and the assessors shall correct errors which occur in the county assessment list.

(f) The commissioners shall have the authority to fill any vacancy in the position of assessor, and the assessors shall hold office at the pleasure of the board.

(g)(1)(A) The elected board of commissioners of a fire protection district formed after July 3, 1995, under this subchapter may assess a flat fee per parcel of land or per acre of land located within the district or assess a flat fee per landowner who owns land located within the district, as an alternative to assessing benefits.

(B) The elected board of commissioners of a fire protection district formed after July 3, 1995, under this subchapter may establish a different flat fee for the classification of property as commercial property other than for residential property and a different flat fee for the classification of property as unimproved property.

(C) The elected board of commissioners may determine if a parcel of property or acre is to be classified as commercial, residential, or unimproved property.

(D) If the elected board of commissioners of a fire protection district formed after July 3, 1995, under this subchapter assesses the flat fee per landowner and also establishes different flat fee classifications per parcel or per acre, and if a landowner owns more than one (1) parcel or one (1) acre of property within the fire district with different flat fee classifications, the landowner is to be annually assessed one (1) time the highest flat fee classification assessment.

(2)(A) If the elected board of commissioners of a fire protection district formed after July 3, 1995, under this subchapter assesses an increase in the flat fee per parcel or per acre classification or an increase in the assessment per landowner or an increase in the assessment for both parcel or acre classification and landowner, the increased assessment must be approved in an election by a majority vote of the votes cast in person by the assessed landowners or the assessed per parcel or per acre property owners.

(B) The election called by the elected board of commissioners for an increase in the flat fee assessment shall be held within ninety (90) days after the board of commissioners' meeting that approves the assessment increase.

(C) Notice of the election must be published at least three (3) times by insertion in a newspaper of general circulation within the fire protection district and by a public notice posted at the fire stations within the fire protection district.

(D) The election for the assessment increase shall be held at a designated location within the fire protection district.

(E) Each assessed landowner or assessed parcel or acre property owner shall have one (1) vote per paid assessment.

(3)(A)(i) On and after March 6, 2015, the elected board of commissioners of a fire protection district shall assess timberland at a rate not to exceed twenty-five percent (25%) of the forest fire protection tax under § 26-61-103.

(ii) The current assessment rate on timberland in effect on March 6, 2015, may stay the same but shall not be increased beyond the rate under this subdivision (g)(3).

(B) As used in this section, "timberland" means the same as defined in § 26-61-102.

History. Acts 1979, No. 35, § 10; A.S.A. 1947, § 20-932; Acts 1989, No. 648, § 2; 1995, No. 766, § 3; 2009, No. 765, § 2; 2015, No. 346, § 1.

Amendments. The 2015 amendment added (g)(3).

14-284-214. Assessments — Annual reassessments.

(a) The board of commissioners shall once a year order the assessors to reassess the annual benefits of protected property in the fire protection district if there have been improvements made or improvements destroyed or removed from one (1) or more tracts of land in the fire protection district, making it necessary to have the annual benefits revised.

(b)(1)(A) Whereupon, it shall be the duty of the assessors to reassess the benefits of the fire protection district, and the annual benefits assessed may be raised or lowered as fire protection services benefiting the property change.

(B) If the annual benefits assessed exceed one hundred dollars ($100) per parcel, the quorum court of the county in which the fire protection district lies shall review and approve or disapprove the reassessment.

(2) If the board of commissioners determines that there have been no significant changes in improvements on the lands in the fire protection district, the board of commissioners may direct that assessed benefits remain the same as the benefits assessed the preceding year.

History. Acts 1979, No. 35, § 12; A.S.A. 1947, § 20-934; Acts 2019, No. 1077, § 4.

Amendments. The 2019 amendment added (b)(1)(B) and redesignated former (b)(1) as (b)(1)(A); inserted "board of" in (a); inserted "fire protection" twice in (a), in (b)(1)(A), and in (b)(2); and in (b)(2), substituted "board of commissioners determines" for "commissioners determine", and substituted "fire protection district, the board of commissioners" for "district, they".

14-284-216. Assessments — Time for payment — Failure to pay.

(a)(1)(A) All annual assessments extended and levied under this subchapter are payable at the time ad valorem real property taxes are payable.

(B) The county shall list the fire protection district assessments as an involuntary collection beginning with the next ad valorem real property tax statement.

(2) A property owner shall pay the assessments under this subchapter as a prerequisite to paying his or her ad valorem real property taxes.

(3) The collector shall report delinquent assessments annually to the board of commissioners of the fire protection district for informational purposes.

(4)(A) The collector shall add to the amount of the delinquent assessment a penalty of ten percent (10%) and shall collect the delinquent assessment in the same manner as delinquent ad valorem real property taxes.

(B)(i) The collector may certify delinquent assessments for collection after January 1 each year.

(ii) A delinquent assessment that existed before January 1, 2020, is deemed uncollectible.

(b) The board of commissioners shall enforce the collection by proceedings in the circuit court of the county in the manner provided by §§ 14-121-426 — 14-121-432.

(c)(1) The collector may retain in reserve up to ten percent (10%) of monthly remittances to a fire protection district for a period of no more than sixty (60) days.

(2) The reserve shall be refunded at the end of the sixty (60) days without interest, and the reserve fund may accompany a dues remittance payment.

History. Acts 1979, No. 35, § 14; A.S.A. 1947, § 20-936; 1995, No. 766, § 5; 2011, No. 264, § 1; 2019, No. 1077, § 5.

Amendments. The 2019 amendment rewrote (a).

14-284-224. Petition to annex territory to an existing district — Special election.

(a)(1)(A) When petitions are filed with the board of commissioners of a fire protection district created pursuant to this subchapter containing the signatures of at least ten percent (10%) of qualified electors of a portion of the unincorporated area of the county, as determined by the number of votes cast by the qualified electors of that portion of the county for all candidates for Governor at the last preceding general election, requesting the annexation of the territory to an existing fire protection district created under this subchapter and requesting that assessed benefits be made on the property located within the area to be annexed to help finance the operation of the district, the board of commissioners shall conduct a public hearing on the petition.

(B) If the board determines the annexation to be desirable, the board shall notify the quorum court, and the quorum court may at its discretion call a special election within the area of the existing fire protection district and the area proposed to be annexed to determine whether the annexation should occur.

(2) No annexation shall occur except pursuant to an election under subsection (b) of this section or by ordinance under subsection (d) of this section.

(b)(1) The special election called by the quorum court to submit the question of the annexation and financing of the fire protection district to the electors of the district and the area to be annexed shall be held no later than ninety (90) days after the proclamation of a special election in accordance with § 7-11-201 et seq.

(2) At the election, the question of annexing the area to the district and the financing of the district shall be placed on the ballot in substantially the following form:

"FOR the annexation of .....(description of area to be annexed), and the levy of assessed benefits on real property within the area to be annexed to help finance the district .....☐

AGAINST the annexation of .....(description of area to be annexed), and the levy of assessed benefits on real property within the area to be annexed to help finance the district .....☐"

(c) If a majority of those voting at the election who reside within the area to be annexed and a majority of those voting at the election who reside within the existing district vote in favor of the annexation, the area shall be deemed annexed and shall become a part of the fire protection district and governed accordingly.

(d)(1) As an alternative to an election on the annexation issue, if the board of commissioners of a fire protection district is in favor of the annexation, the board may refer the petitions to the county quorum court that may then accomplish the annexation by enactment of a county ordinance providing for the annexation.

(2)(A)(i) However, the ordinance shall not go into effect until sixty (60) days after its enactment.

(ii) During that time, if petitions calling for a referendum on the ordinance are presented to the quorum court and the petitions are signed by the number prescribed in subsection (a) of this section, the quorum court shall call a special election in accordance with § 7-11-201 et seq. on the issue of the annexation.

(B) The election shall be conducted as prescribed in subsection (b) of this section.

(C) Unless at least a majority of those voting at the election who reside within the area to be annexed and a majority of those voting at the election who reside within the existing district vote in favor of the annexation, the annexation shall not occur.

(3) If the petitions are filed within sixty (60) days after enacting the ordinance, the ordinance shall not go into effect until and unless the annexation is approved at the election provided for in this section.

(e) An attempt at annexation under this section, whether successful or not, shall in no way reduce the bonding authority of the fire protection district, nor shall the failure of the attempt at annexation have any effect on the existing fire protection district.

(f) No area shall be annexed under this section if it is located within the service area of another fire protection district or a nonprofit fire protection corporation.

History. Acts 1991, No. 1028, § 2; 2005, No. 2145, § 55; 2007, No. 1049, § 77; 2009, No. 1480, § 95.

14-284-226. Conversion to fire protection district.

(a) The governing body of a fire department that seeks to become a fire protection district shall make the request by petition to the quorum

court of the county, or counties if the fire department serves more than one (1) county.

(b)(1)(A) Upon the request by petition in subsection (a) of this section, the quorum court shall grant the petition to convert the fire department to a fire protection district within sixty (60) days of receipt of the petition.

(B) The quorum court shall respond in writing to the fire department within the sixty-day period under subdivision (b)(1)(A) of this section if there are issues or questions the quorum court would like addressed in the petition, but in no event shall the quorum court delay the sixty-day period under subdivision (b)(1)(A) of this section.

(2) The fire protection district assessments shall be listed annually beginning with the next ad valorem real property tax statement and collected under § 14-284-216.

History. Acts 2017, No. 703, § 1; 2019, No. 1077, § 6.

Amendments. The 2019 amendment added "The governing body of" in (a); and rewrote (b).

Subchapter 3 — Rural Fire Protection Service

Effective Dates. Acts 2019, No. 910, § 6346(b): July 1, 2019. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act revises the duties of certain state entities; that this act establishes new departments of the state; that these revisions impact the expenses and operations of state government; and that the sections of this act other than the two uncodified sections of this act preceding the emergency clause titled 'Funding and classification of cabinet-level department secretaries' and 'Transformation and Efficiencies Act transition team' should become effective at the beginning of the fiscal year to allow for implementation of the new provisions at the beginning of the fiscal year. Therefore, an emergency is declared to exist, and Sections 1 through 6343 of this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019".

14-284-304. Powers and duties.

The Rural Fire Protection Service of the Arkansas Forestry Commission shall have the following powers, functions, and duties to be performed under appropriate policies and rules promulgated by the Arkansas Forestry Commission:

(1) To develop rural fire protection plans for the providing of fire protection services in the various rural areas of this state which do not have available the benefits or services of an organized or voluntary

firefighting program, and to assist existing organized or volunteer firefighting services;

(2) To encourage the establishment of rural fire protection districts and to promulgate reasonable and necessary rules that rural communities must meet in order to become eligible to secure firefighting vehicles and equipment through the Arkansas Forestry Commission;

(3) To cooperate with and assist the Arkansas Fire Training Academy in developing training programs designed to instruct and train firefighters employed or used by rural fire protection districts in the suppression of fires, and to especially establish training programs designed to prepare rural firefighters in the methods of handling firefighting problems encountered in rural areas;

(4) To provide leadership and to cooperate with the Division of Emergency Management, the State Fire Marshal's office, and the Arkansas Fire Training Academy in coordinating the efforts of these agencies with the efforts and services of rural fire protection districts for the purpose of coordinating and making maximum use of the services and resources of this state in providing rural fire protection services in this state;

(5) To establish a program to obtain by acquisition, donation, transfer, loan, or purchase, vehicles and other properties which are suitable for repair, refurbishing, and renovation, to be used as fire trucks or other firefighting equipment, and to acquire the necessary tanks, pumps, water hoses, and other equipment to convert and adapt the equipment for firefighting purposes, and to make the equipment available to rural fire protection districts, under appropriate rules and eligibility standards promulgated by the Arkansas Forestry Commission, to be used by rural fire protection districts in the suppression of fires;

(6) To provide technical assistance and guidance to rural fire protection districts, to cooperate with and assist persons interested in the creation of the districts in the collection of data and providing other resources or technical assistance to aid rural property owners in efforts to establish rural fire protection services, and to provide technical advice and assistance to rural fire protection districts to enable the districts to obtain and operate the necessary equipment and training and operating procedures to function efficiently as a rural fire protection district;

(7) To contract with public and private sources, including the Division of Correction, for providing mechanical, painting, body work, or other repair services relative to the conversion, painting, and adaptation of vehicles being converted into fire protection vehicles, and to reimburse for the cost of the services;

(8) To promulgate appropriate rules and forms for the administration of the Rural Fire Protection Revolving Fund, which shall consist of moneys made available for it to be used by the Arkansas Forestry Commission in defraying the initial cost of equipment, repair, furnishing, and adaptation of vehicles as fire trucks, or other firefighting

equipment, with the cost to be reimbursed to the Arkansas Forestry Commission upon the vehicle's being made available to a rural fire protection district or similar rural firefighting agency which operates not for profit, and, in addition, to make loans, as provided in this subchapter, to rural fire protection districts to provide a portion of the moneys required to enable the districts to acquire vehicles and equipment from the Arkansas Forestry Commission; and

(9) To perform such other functions and duties which may be necessary to enable the Arkansas Forestry Commission to provide a program of comprehensive services to encourage the development and availability of rural fire protection services throughout this state.

History. Acts 1979, No. 36, § 2; A.S.A., 1947, § 20-945; Acts 1993, No. 1095, § 1; 1999, No. 646, § 55; 2015, No. 697, § 1; 2019, No. 315, § 1042; 2019, No. 910, § 847.

Publisher's Notes. Acts 1999, No. 646, § 1, provided: "The State Office of Emergency Services shall hereafter be known as the 'Arkansas Department of Emergency Management'. Any provisions of the Arkansas Code not corrected by this act shall be corrected by the Arkansas Code Revision Commission to reflect the title 'Arkansas Department of Emergency Management' instead of 'State Office of Emergency Services' or any similar titles that now apply to the State Office of Emergency Services."

Amendments. The 2015 amendment, in (7), inserted "public and private sources including" and deleted "the Department of Correction" following "reimburse."

The 2019 amendment by No. 315 substituted "policies and rules" for "policies, rules, and regulations" in the introductory language; deleted "and regulations" following "rules" in (2) and (5); and deleted "regulations" following "rules" in (8).

The 2019 amendment by No. 910 substituted "Division of Correction" for "Department of Correction" in (7).

14-284-305. Rural Fire Protection Revolving Fund generally.

(a) There is created and established on the books of the Treasurer of State, the Auditor of State, and the Department of Finance and Administration the "Rural Fire Protection Revolving Fund", into which shall be transferred or deposited the moneys to be provided by law for the fund, to be used as a revolving fund by the Arkansas Forestry Commission for:

(1) The acquisition by the Arkansas Forestry Commission of vehicles and for the payment of charges for labor, equipment, and materials necessary to convert the vehicles into firefighting vehicles suitable for rural fire protection service, and to make reimbursement to the fund upon making the vehicles available to rural fire protection districts, as provided by law; and

(2)(A) Making loans to rural fire protection districts which apply therefor and which are qualified under rules promulgated by the Arkansas Forestry Commission as qualified rural fire protection districts.

(B) The loans shall be used by qualified rural fire protection districts to provide moneys required to pay not more than seventy-five percent (75%) of the cost of acquiring, repairing, renovating, or equipping firefighting vehicles which have been converted and

adapted by the Arkansas Forestry Commission for rural fire protection use.

(C) However, the moneys loaned to a rural fire protection district from the fund shall be used exclusively to defray a portion of the cost of acquiring the firefighting equipment from the Arkansas Forestry Commission.

(D) The Arkansas Forestry Commission may establish a reasonable rate of interest to be charged on loans made from the revolving fund.

(b) All revenues received by the Arkansas Forestry Commission from the furnishing of firefighting vehicles or equipment to rural fire protection districts, or to other eligible nonprofit organizations which are eligible to purchase the equipment from the Arkansas Forestry Commission, and all moneys received by the Arkansas Forestry Commission upon repayment of loans made from the fund shall be deposited into the State Treasury as nonrevenue receipts and shall be credited by the Treasurer of State to the fund, to be used for the purposes of the fund as set forth by law.

History. Acts 1979, No. 36, § 4; A.S.A. 1947, § 20-947; Acts 1993, No. 1095, § 2; 2019, No. 315, § 1043.

Amendments. The 2019 amendment deleted "and regulations" following "rules" in the introductory language of (a)(2) [now (a)(2)(A)].

14-284-307. Loans for purchase of vehicles and equipment.

(a) Rural fire protection districts organized under the laws of this state which operate not-for-profit or any other rural fire protection agency, service, or program which provides rural fire protection to its members or to the public not-for-profit shall be eligible to purchase firefighting vehicles and equipment from the Arkansas Forestry Commission, if the vehicles and equipment are available, to be used for rural fire protection services.

(b) The Arkansas Forestry Commission may make loans to eligible rural fire protection districts and other qualified districts, services, or programs which provide fire protection to rural areas not-for-profit, who may apply to the Arkansas Forestry Commission, upon forms and in accordance with rules promulgated by the Arkansas Forestry Commission, for loans not to exceed seventy-five percent (75%) of the cost of acquiring rural fire protection vehicles or equipment.

(c) The loans shall be for such period as may be approved by rule of the Arkansas Forestry Commission, and in no event may any loan be for more than three (3) years.

(d) The Arkansas Forestry Commission is authorized to establish a system of priorities for determining eligibility for the acquisition of firefighting vehicles renovated by the department which are available for sale to rural fire protection districts and may also establish a system of priorities for eligibility for loans from the Rural Fire Protection Revolving Fund for a portion of the moneys needed to acquire the vehicles by rural fire protection districts.

History. Acts 1979, No. 36, § 5; A.S.A. 1947, § 20-948; Acts 1993, No. 1095, § 4; 2019, No. 315, § 1044.

Amendments. The 2019 amendment deleted "and regulations" following "rules" in (b); and substituted "rule" for "regulation" in (c).

Subchapter 4 — Insurance Premium Taxes

14-284-403. Apportionment of funds.

(a)(1) These premium tax moneys are assessed for disbursement from the Fire Protection Premium Tax Fund, § 19-6-468, by the Department of Finance and Administration to the counties in the following percentages:

Arkansas County — 0.78%, Ashley County — 1.39%, Baxter County — 1.78%, Benton County — 3.86%, Boone County — 1.46%, Bradley County — 0.52%, Calhoun County — 0.51%, Carroll County — 0.97%, Chicot County — 0.51%, Clark County — 1.13%, Clay County — 1.10%, Cleburne County — 1.11%, Cleveland County — 0.66%, Columbia County — 1.24%, Conway County — 1.04%, Craighead County — 2.91%, Crawford County — 1.98%, Crittenden County — 1.32%, Cross County — 0.84%, Dallas County — 0.45%, Desha County — 0.71%, Drew County — 0.80%, Faulkner County — 2.30%, Franklin County — 0.97%, Fulton County — 0.84%, Garland County — 3.12%, Grant County — 1.13%, Greene County — 1.39%, Hempstead County — 1.89%, Hot Spring County — 1.46%, Howard County — 0.75%, Independence County — 1.90%, Izard County — 0.91%, Jackson County — 0.95%, Jefferson County — 2.32%, Johnson County — 1.05%, Lafayette County — 0.71%, Lawrence County — 0.96%, Lee County — 0.73%, Lincoln County — 1.12%, Little River County — 0.77%, Logan County — 1.06%, Lonoke County — 1.70%, Madison County — 0.95%, Marion County — 1.00%, Miller County — 1.44%, Mississippi County — 1.77%, Monroe County — 0.53%, Montgomery County — 0.66%, Nevada County — 0.58%, Newton County — 0.67%, Ouachita County — 1.37%, Perry County — 0.62%, Phillips County — 1.12%, Pike County — 0.87%, Poinsett County — 1.14%, Polk County — 1.01%, Pope County — 1.73%, Prairie County — 0.83%, Pulaski County — 5.99%, Randolph County — 0.96%, St. Francis County — 1.45%, Saline County — 3.00%, Scott County — 0.59%, Searcy County — 0.73%, Sebastian County — 2.06%, Sevier County — 0.82%, Sharp County — 1.30%, Stone County — 0.77%, Union County — 2.01%, Van Buren County — 1.18%, Washington County — 3.46%, White County — 2.71%, Woodruff County — 0.47%, and Yell County — 1.11%.

(2)(A) The moneys shall be apportioned by each quorum court to the districts and municipalities within the county based upon population unless the county intergovernmental cooperation council notifies the quorum court of the fire protection needs of the districts and municipalities, in which case the moneys shall be apportioned by the quorum court based on those needs.

(B) The moneys shall be distributed to municipalities and those certified departments in districts that are in compliance with this subchapter, § 20-22-801 et seq., and § 6-21-106.

(C) Fire departments that are not certified by the Office of Fire Protection Services under § 20-22-801 et seq. shall also be eligible to receive moneys disbursed under this section so long as all moneys received are spent directly on equipment, training, capital improvements, insurance for buildings, utility costs, or other expenditures necessary for upgrading the service provided by the department.

(D)(i) An inactive fire department, as determined by the county judge, is not eligible to receive moneys disbursed under this section.

(ii) Any moneys allocated by the county intergovernmental cooperation council and any moneys that would have been apportioned to an inactive fire department based upon population shall be disbursed by the quorum court to the active departments based upon fire protection needs.

(iii) If a quorum court has passed a resolution that reallocates the moneys remaining after the disbursement of moneys under this section, then the moneys shall be reallocated based upon the quorum court resolution.

(b) Disbursements shall be made on forms prescribed by the Department of Finance and Administration.

(c) A county treasurer shall not collect the treasurer's commission provided in § 21-6-302 on any of the premium tax moneys disbursed from the Fire Protection Premium Tax Fund.

(d) Premium tax moneys are state moneys and are only pass-through moneys for county government not subject to county appropriation or county claims processes.

(e)(1) There is created in each county a fund in the office of the county treasurer to be known as the "county fire protection premium tax fund".

(2) Premium tax moneys received by the county treasurer shall be credited to the county fire protection premium tax fund and disbursed by the county treasurer to the appropriate fire department based on the apportionment by the quorum court under subdivision (a)(2)(A) of this section.

History. Acts 1991, No. 833, § 3; 1992 (1st Ex. Sess.), No. 10, § 4; 2005, No. 435, § 1; 2007, No. 538, § 2; 2011, No. 880, § 1; 2013, No. 91, § 1; 2015, No. 79, § 1.

Amendments. The 2015 amendment added (d) and (e).

14-284-404. Use of funds.

(a)(1) The funds shall be used:

(A) To defray training expenses of firefighters at the Arkansas Fire Training Academy and fire training centers certified by the Arkansas Fire Protection Services Board;

(B) For the purchase and improvement of, or for pledging as security for a period of not more than ten (10) years in the financing of the purchase and improvement of, firefighting equipment and initial capital construction or improvements of fire departments;

(C) For insurance for buildings; or

(D) For utility costs.

(2) Municipalities, fire departments, and districts must expend or allocate for expenditure all funds received under this subchapter on or before the expiration of twelve (12) months from the date of receipt.

(3) Any excess or surplus funds that are not expended or allocated for expenditure within each twelve-month period shall be remitted to the fund no later than sixty (60) days following the expiration of each twelve-month period.

(b) Equipment funded under this section shall be used by the municipalities and departments located in fire protection districts that have been duly formed or established under the provisions of § 14-284-201 et seq.

History. Acts 1991, No. 833, § 3; 2013, No. 91, § 2.

14-284-406. Areas with no rural volunteer fire department or fire protection district — Areas in two or more counties.

(a)(1) Pursuant to § 14-284-201(a)(2)(A), in any area in any county in which there is no rural volunteer fire department or fire protection district which qualifies for funds under the provisions of this subchapter, the quorum court is authorized, in its discretion and with the approval of the Arkansas Fire Protection Services Board, to designate any unincorporated area of the county to be served by a municipal fire department, if approved by the governing authorities of the municipality.

(2)(A) In addition to funds the municipality is otherwise entitled to under this subchapter, the municipality serving any such designated area shall receive the funds that the rural volunteer fire department or fire protection district would have been eligible to receive.

(B) The funds shall be used by the municipality to provide training, to purchase equipment necessary to provide fire protection in the designated unincorporated area in compliance with this subchapter, to purchase insurance for buildings, or to pay utility costs.

(b)(1) No municipality shall receive funds under this subchapter unless it is willing to provide fire protection through mutual aid agreements in areas within five (5) miles of its corporate limits.

(2) A municipality shall not be required to respond when, in the opinion of proper municipal authorities, its municipal property or fire classification rating would be jeopardized.

(c)(1) A rural volunteer fire department or fire protection district that qualifies for funds under this subchapter and that provides fire protection services in two (2) or more counties shall be eligible to receive moneys from each of the counties under § 14-284-403(a)(2).

(2) The county quorum court of each county shall apportion the funds to the fire departments or districts eligible under this subsection in accordance with § 14-284-403(a)(2).

History. Acts 1991, No. 833, § 3; 2003, No. 200, § 1; 2013, No. 91, § 3.

14-284-409. Maintenance of real property of rural volunteer fire department.

The county judge of any county is hereby authorized and empowered, in his or her discretion, to grade, gravel, pave, and maintain real property of a rural volunteer fire department, including roads or driveways, as necessary for the effective and safe operation of the rural volunteer fire department.

History. Acts 1991, No. 833, § 7; 2003, No. 102, § 1.

14-284-412. Washer-extractor requirements.

(a) To be eligible for funding under this subchapter, a fire department shall have access to a washer-extractor capable of one hundred gravitational force (100 g-force) of spin installed by January 1, 2022, as certified by the county fire coordinator, except as provided under subsections (c) and (d) of this section.

(b) Funding withheld under subsection (a) of this section is not subject to redistribution under this subchapter and shall be released upon certification of installation under subsection (a) of this section.

(c)(1) A fire department may enter into a written interlocal agreement with another fire department in the state that has met the requirements of subsection (a) of this section to be in compliance with this section.

(2) The written interlocal agreement under subdivision (c)(1) of this section shall address access to the washer-extractor and require reasonable notification for the access.

(d) To meet the requirements of this section, an intergovernmental council of a county may purchase a washer-extractor to be used by all fire departments in the county and installed at a central location in the county chosen by the county fire coordinator.

History. Acts 2017, No. 962, § 1.

CHAPTER 285

MUNICIPAL RECREATION IMPROVEMENT DISTRICTS

SECTION.

14-285-103. Collection of annual installments.

(a) The county collector of each county wherein is located all or part of a municipal recreation improvement district formed in a second class city shall collect the annual installments of the assessment of benefits by the district and the amount shall be collected along with and at the same time as ad valorem real property taxes.

(b) The county collector shall not accept payment of ad valorem real property taxes unless accompanied by payment of annual installments of the assessments by the municipal recreation improvement districts.

(c) All municipal recreation improvement districts shall report their assessments of benefits to the county collectors at such time and in such manner as required by the county collectors.

(d) A municipal recreation improvement district may enforce collection of a delinquent assessment by a proceeding in the circuit court of the county in the manner as provided for municipal property owners' improvement districts under § 14-94-122.

History. Acts 1985, No. 179, § 3; A.S.A. 1947, § 20-152; Acts 2007, No. 152, § 1.

CHAPTER 286

FIRE ANT ABATEMENT DISTRICTS

SECTION.

Effective Dates. Acts 2009, No. 1480, § 117: Apr. 10, 2009. Emergency clause provided: "It is found and determined by the General Assembly of the State of Arkansas that this act makes various revisions to Arkansas election laws that are designed to improve the administration of elections and special elections and that these revisions should be implemented as soon as possible so that the citizens of this state may benefit from improved election procedures. Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on: (1) The date of its approval by the Governor; (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto."

14-286-103. Elections — Time — Ballots.

(a) The special election called by the county court to submit the question of the establishment and financing of a red imported fire ant abatement district to the electors of the proposed district shall be held in accordance with § 7-11-201 et seq. no later than ninety (90) days after the proclamation of the election.

(b) At the election, the question of establishing and financing the district shall be placed on the ballot in substantially the following form:

"FOR the establishment of a Red Imported Fire Ant (Solenopsis invicta) abatement district in ____ County, ____ (city), ____ (designated area) and the establishment of assessed benefits on real property in the district in an amount not to exceed one percent (1%) of the assessed valuation of real property in the district to finance the district ____.

AGAINST the establishment of a Red Imported Fire Ant (Solenopsis invicta) abatement district in ____ County, ____ (city), ____ (designated area) and the establishment of assessed benefits on real property in the district in an amount not to exceed one percent (1%) of the assessed valuation of real property in the district to finance the district ____."

History. Acts 1997, No. 590, § 3; 2005, No. 2145, § 56; 2007, No. 1049, § 78; 2009, No. 1480, § 96.

CHAPTER 287

MUNICIPAL MANAGEMENT DISTRICTS

Cross References. Fire Ant Advisory Board, § 2-16-701 et seq.

14-287-101. Authority to create.

Cities may enact by ordinance a process to create a municipal management district to manage, develop, construct, and maintain public works and enhancement projects in areas of municipalities.

History. Acts 1999, No. 230, § 1.

14-287-102. Petition to create.

Before a municipal management district can be created, a petition must be submitted to the governing body of the municipality that includes the following:

(1) A resolution to the governing body in support of the creation of the district and signed by at least ninety percent (90%) of the property owners within the district representing at least ninety percent (90%) of the appraised property value within the district and at least ninety percent (90%) of the privately held land area within the district;

(2) The boundaries of the proposed district;

(3) The specific purposes for which the district will be created;

(4) The general nature of the work, projects, or services proposed to be provided;

(5) The method of establishing assessments for the district;

(6) A project cost estimate which shall not exceed two million dollars ($2,000,000); and

(7) A budget for operating and paying for improvements.

History. Acts 1999, No. 230, § 2.

14-287-103. Maximum size of district.

The municipal management district will be limited to a maximum of one (1) square mile.

History. Acts 1999, No. 230, § 3.

14-287-104. Municipal management district commission.

(a) The mayor will appoint two (2) members of the governing authority and three (3) residents or owners of property in the district to serve on the municipal management district commission.

(b) Terms of the commissioners will be decided by local ordinance, not to exceed five (5) years.

(c) No commission member shall receive compensation.

(d) The commission may retain legal counsel and staff assistance may be provided by the municipality.

(e) Upon termination of the district, the municipality shall accept maintenance responsibility for the improvements.

(f) The life of the district shall not exceed ten (10) years, at which time all improvements, debts, and charges will be paid in full.

History. Acts 1999, No. 230, § 4.

14-287-105. Rates and other fees — Annual audit.

(a) Municipal management districts may establish and maintain reasonable and nondiscriminatory rates, fares, tolls, charges, assessments, rents, or other fees or compensation for the use of the improvements constructed, operated, or maintained by the district.

(b) The district shall be audited by a certified public accountant each year with the audit findings being published in a daily newspaper with a circulation which includes the district.

History. Acts 1999, No. 230, § 5.